

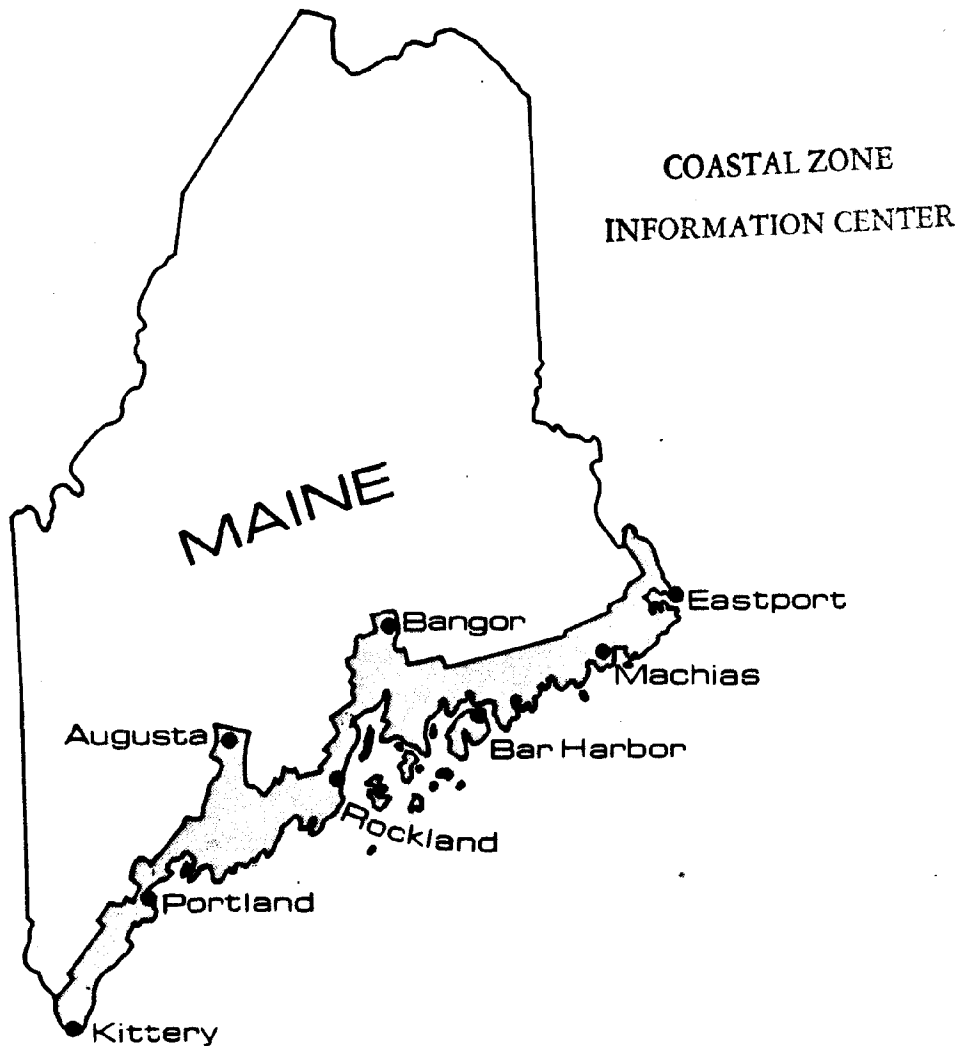
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# Maine's Coastal Program

PROGRESS REPORT

August 1, 1985 to March 31, 1986

Maine Coastal Zone Management Program



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Maine State Planning Office

## **THE MAINE COASTAL PROGRAM**

In the early 1970's, several large industrial projects were proposed along Maine's coast including an aluminum smelter and two oil refineries, that would have dramatically changed the character of the coast. Coastal residents and Maine State government recognized that only through a coordinated effort could they manage wisely the coast's many valuable resources.

In 1972, the federal government established the Coastal Zone Management Act designed to forge a partnership between federal, State, and local governments to improve coastal resources use and management. In 1978, Maine officially adopted a Coastal Management Program. The primary emphasis of Maine's program is to strike a balance between resource management and development activities and to support regional, and State agencies working on coastal management issues.

Since 1978, Maine's Coastal Program has had many outstanding accomplishments which can be attributed to State, regional and local cooperation. Many coastal towns have prepared comprehensive plans and adopted a variety of growth

management ordinances and policies to help guide development with Coastal Program assistance. Coastal communities have identified public accessways to the shoreline and improved these sites for public recreation. Other communities have initiated waterfront improvements which expand commercial and recreational opportunities.

The federal, State, local partnership envisioned by Congress has an excellent track record in Maine. Maine's Fish Pier Program, first planned by the Coastal Program, has resulted in seven new fish piers along the coast, bringing many jobs to coastal communities. The cargo port initiative, developed by the Program, is responsible for a new cargo pier in Eastport and the proposed bulk cargo port in Searsport. Projects to conserve fragile natural resources are also numerous, supporting the Program's goal to balance the conservation and development of coastal resources.

People interested in learning more about Maine's Coastal Program may contact the State Planning Office at 184 State Street, State House Station #38, Augusta, Maine 04333 or call (207) 289-3261.

Financial assistance for this report was provided by a grant from the MAINE COASTAL PROGRAM in the Maine State Planning Office, through funding provided by the U.S. Department of Commerce, Office of Ocean & Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended.

MAINE'S COASTAL PROGRAM

Progress Report  
August 1, 1985 to March 31, 1986

Submitted to

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US Department of Commerce  
NOAA Coastal Services Center Library  
2234 South Hobson Avenue  
Charleston, SC 29405-2413

Maine State Planning Office  
State House Station # 38

Augusta, Maine 04333  
Tel. (207) 289-3261

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## Coastal Issues & Accomplishments

### 1. NEW TOOLS FOR MANAGING MAINE'S COASTAL RESOURCES

The 112th Legislature affirmed the State's strong commitment to the conservation, beneficial use and management of coastal resources with enactment of a comprehensive coastal initiative proposed by Governor Joseph E. Brennan. The bill (An Act to Enhance the Sound Use & Management of Maine's Coastal Resources, P.L. 784) sets forth nine legislative policy goals to guide coastal resource management, and implements these goals by providing improved local management tools in four vital areas:

- o revitalizing local waterfronts,
- o providing public access to the sea,
- o restricting development in flood prone areas, and
- o protecting natural and cultural resources.

Specifically, the bill gives State backing to municipalities which adopt ordinances giving preference to water-dependent uses on the waterfront. It requires local planning boards when reviewing subdivision applications to determine whether the proposals will adversely impact public rights for physical or visual access to the shoreline. It creates a Heritage Coastal Area list which will formally designate areas containing geological, botanical, zoological, historical or scenic features of exceptional state or national significance, for the purpose of encouraging their protection on a voluntary basis.

The bill addresses hazard management issues with provisions (a) requiring new construction to be sited at least one foot above the 100 year flood elevation, and floodway areas to be designated as resource protection zones in local zoning ordinances; (b) prohibiting State expenditures for development activities within designated coastal barrier beach areas; and (c) outlining cost sharing for disaster assistance to local governments.

The legislative policy goals in this legislation will be further implemented by a companion bond initiative scheduled for referendum vote in November, 1986. The bond initiative will establish the following funds:

- o Maine Shoreline Access Fund, providing \$3.25 million for State and local acquisition and development of public access along the coast. The fund will ensure that as our coastline becomes more heavily developed, places to reach the shore for recreation and commercial activities (e.g. clamming and worming) are not lost.

- o Waterfront and Pier Rehabilitation Program, providing \$4 million to coastal communities for fish pier and other commercial waterfront improvements.
- o Marine Laboratory Development, funding improvements to the Department of Marine Resources Laboratory in Boothbay Harbor. This project will enhance the State's research ability and management of the fishery.
- o Maine State Ferry Service, providing \$2 million for improvements critical to the residents and local economies of the State's many coastal islands.

Additional steps to implement the legislative policy goals declared in the coastal management legislation will be developed over the next months, as individual State agencies examine opportunities within their own areas of responsibility. The unprecedented growth experienced by coastal communities today require a strong commitment to the work of coastal resource management at every level of government, if the timeless qualities of the Maine coast are to endure the changes of the next decade.

(See also Task 4.A in Part I; and items 3, 4, 5 and 6 of Part II of Appendix A.)

## 2. IMPROVED PUBLIC AWARENESS OF COASTAL ISSUES

Enactment of the new coastal management legislation may be attributed in part to increased public awareness and interest in coastal issues resulting from a series of over fifty public presentations which were made by SPO staff along the length of the coast. The presentations covered public service groups, chambers of commerce, and specially-organized public meetings. They made effective use of a warmly-received 20-minute narrated slide program entitled The Maine Coast: A Time of Change produced by the State Planning Office, which is also generally available on request.

Heightened public visibility of coastal management issues is a result of other SPO activities as well. These include the staff role in coordinating "Maine Coastweek '85," for which the Governor officially proclaimed the week of October 5-14 as "Coastweek"; and publication and distribution of a booklet on The Maine Coast: A Time of Change. Distribution throughout the coastal area of a poster, "Know What You're Doing Before You Build on the Coast," and television airing of two forthcoming public service announcements funded by the Coastal Program, will continue this public education effort into the future.

(See also Tasks 1.D and 4.B in Part I of Appendix A.)



### 3. THE CUMULATIVE IMPACT OF NEW DEVELOPMENT ON THE COAST

Last year in Cumberland County twelve moratoria on growth were imposed to buy time for planning. In York County, local officials of six towns found it necessary to limit the number of building permits they will issue; one town has limited the number of new sewer hookups.

One hardly need ask why. Population and housing growth in southern Maine not only have eclipsed all expectations, but they have run well beyond the capability of zoning and other tools available to the towns for land use management, as well as local administrative resources.

What is happening in southern Maine inevitably will be affecting other areas of the coast as well, sooner or later. Between 1970 and 1985 a nine-town area in York County grew in population by 64%. One town grew by one-third over five years. Some of the planning boards in this area handle two to three hundred permit requests annually, and have little time left over for advance planning.

The threat to Maine's character and resources is lot by lot, piece by piece, over time. A fragmented landscape is the result. We find ourselves saying no, we really don't have any good hunting areas any more, and no, you can't walk across that land or drink that water. Traffic jams, heretofore virtually unknown in Maine, now are common along Route 1. The cumulative impacts of all this activity result in a pressurized environment and lifestyle, and loss of Maine's special pace and sense of place. Portland already is touted in some circles as the San Francisco of the east.

Though the comprehensive plans of most towns declare the importance of resources such as open space, ground water, wetlands and wildlife, few communities have effective ordinances for maintaining these values. At the State level, proposals for large projects are closely scrutinized, but only on a case-by-case basis. The cumulative effects of all permits on our landscape and natural resources is not considered.

To grapple with this problem, the State Planning Office and Southern Maine Regional Planning Commission have undertaken a pilot project covering nine York County towns. Initial reports on natural resources, land use change, municipal capabilities for managing growth, the use of sewer and water extensions to direct growth, and the legal framework for growth management, will be available this summer. These reports, as well as the final results of the pilot project, should be of help to towns throughout the State which seek to control rather than be controlled by new development.

The next stage of the project will be to share with the towns the available data base and a variety of approaches to effective growth and land use management, non-regulatory as well as regulatory, and to provide specialized technical assistance.

The project is being guided by local and State level advisory committees. The local committee consists of members of planning boards in the nine towns, the Regional Planning Commission, code enforcement officers and Conservation Commissions. Legislators, local planners, resource experts, the Maine Municipal Association, environmental organizations, a developer, and SPO policy and community assistance staff comprise the State-level committee. (See also Task 5.A in Part I of Appendix A.)

#### 4. SHORELAND ZONING LAW UPHELD

The York County Superior Court in March revoked a variance to height restrictions in the Shoreland Zoning Law in Old Orchard Beach. The variance would have allowed construction of a 142 foot high condominium tower, which would have been the tallest building on the Maine coast. (See Task 1.F in Part I of Appendix A.)

#### 5. PRESERVATION OF ACCESS TO JASPER BEACH

Jasper Beach at the head of Howard's Cove in Machiasport is a magnificent beach of polished volcanic stones, a unique barrier beach formally listed, with Coastal Program funding, as a critical area by Maine's Critical Areas Program. When the Town was threatened with loss of traditional access to the beach, the Machiasport Conservation Commission raised \$15,000 in less than a year in a grass-roots fundraising campaign - a commendable feat in a town with a population of around 1,000. Fundraising was through extensive publicity via newspapers, radio, and mass mailing of brochures; donation cans at local businesses, donations for beach stones mounted as pendants; a slide show, benefit supper and lobster raffle. Matched with a \$30,000 grant through the State, this money enabled the town to purchase a key parcel of land to preserve public beach access. (See also Item 6 in Part II, Appendix A.)

#### 6. PRESERVATION OF THE OYSTER RIVER BOG

In a "first of its kind" action in Maine, the City of Rockland conveyed conservation easements on 700 acres of city-owned land in the Rockland Bog to the Oyster River Bog Association. This was the culmination of a decade-long effort by conservationists to secure protection for the ecologically sensitive areas and its rare plants. This action guarantees that the land will remain forever wild, regardless of subsequent

ownership or shifts in the political wind. Coastal Program grants between 1979 and 1982 assisted the City in surveying and marking boundaries and in other bog resource management activities. The Rockland Bog is listed on the State's register of Critical Areas. (See also, Item 2 in Part II, Appendix A.)

#### 7. FORMATION OF NEW LAND TRUSTS

The Maine Coast Heritage Trust has reported formation of the Islesboro Islands Trust and four other land conservation trusts in 1985, bringing the total to twenty-six. The Islesboro Trust has already protected two important island properties in Penobscot Bay totalling 42 acres, Hutchins Island and a large portion of Spruce Island. In addition, the Trust has made a contribution to the Town of Islesboro for development of a comprehensive plan. (See also, Item 8 in Part II, Appendix A.)

#### 8. WASTE-TO-ENERGY PROJECTS

Ground was broken in July, 1985 for a \$103 million power plant in Biddeford in York County, which will burn more than 600 tons of trash a day while producing 22 megawatts of electricity. To be operational by mid-1987, the plant promises to solve severe problems from over-flowing dumps experienced by numerous towns in the area. Similar plants to serve groups of communities in other parts of the coastal area are in the planning stages, solving problems of wastes seeping into ground water supplies while producing marketable power.

The Coastal Program assisted in preparation of a draft Refuse Disposal District Enabling Act enacted by the 1984 Legislature (P.L. Ch. 820) through a grant to the City of Brewer for the Penobscot Valley Solid Waste Project. (See also Item 8 in Part II, Appendix A.)

#### 9. LEASING OF SUBMERGED LANDS

Rules favoring water-dependent uses of submerged lands and discouraging upland uses were adopted by the Bureau of Public Lands in March, following the required public review process and consideration of in-depth comments from the SPO. (See Item 8 in Part II of Appendix A.)

#### 10. SIGNIFICANT NEW LEGISLATION AFFECTING THE COAST

In addition to the Coastal Management Act and related bond initiative reported above, there have been a number of other legislative accomplishments affecting the coast. These include the following:

#### Shoreline Access

L.D. 2380 (P.L. 782), An Act to Confirm & Recognize Public Trust Rights in Intertidal Land. This bill affirms that the public trust encompasses use of intertidal land (the zone between the mean highwater mark and the mean low watermark) not only for "fishing, fowling, and navigation," but also for "use as a footway between points along the shore and use for recreational purposes," not including motorized vehicles. (See also Item 6 in Part II of Appendix A.)

#### Authority of Harbor Masters

L.D. 2313 (P.L. 692), An Act to Clarify the Authority of Harbor Masters. This law, to be repealed on April 1, 1987, provides a temporary solution to a controversy involving an apparent conflict between the Submerged Lands Law and the Harbormaster Law. The former authorizes the State Bureau of Public Lands to lease submerged lands; the latter makes assignment of moorings a responsibility of municipally-appointed harbor masters. P.L. 692 specifically authorizes municipalities to enact ordinances regulating harbor activity and providing for locating and assigning moorings. It also requires a minimum number of moorings for nonresidents in such ordinances, and orders the Department of Conservation to report to the Legislature by January 1, 1987 regarding the local and statewide harbor issues which have arisen. (See also Item 5 in Part II of Appendix A.)

#### Endangered Plants

L.D. 1997 (P.L. 595), An Act to Establish an Official Endangered Plant List. A Critical Areas Program initiative, this bill establishes an official list of endangered and threatened plants that are worthy of special conservation attention in Maine, to be prepared and maintained by the Director of the State Planning Office with the advice of the Critical Areas Advisory Board. (See also Task 4.C under Park I of Appendix A.)

#### Freshwater Wetlands

L.D. 838 (P.L. 485), An Act to Protect Freshwater Wetlands. This law gives an estimated 30,000 acres of freshwater wetlands similar protection to that given saltwater wetlands under the Alteration of Coastal Wetlands Law, a Coastal Program core law. (See Item 2 in Part II of Appendix A.)

Protection of Water Quality

L.D. 2283 (P.L. 698), An Act to Amend the Classification for Maine Waters and Change the Classifications of Certain Maine Waters. This law amends the Protection & Improvement of Waters Act, which is a Coastal Program core law, with a significant updating and upgrading of the water quality classification system. (See Item 8 in Part II of Appendix A.)

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## Appendix A -- 1985-86 Work Program

### PART I - STATUS OF GRANT TASKS (CZ-109)

#### Task 1. Improving Program Core Law Enforcement & Technical Assistance

##### A. DEP - Core Law Enforcement & Administration (starting October 1, 1985)

The number of DEP complaints in the Coastal Area fell from 165 reported for the summer quarter to 124 in the fall quarter and 89 in the winter quarter. Permit applications increased to 142 in the fall quarter (up from 137 in the summer), and up again to 250 in the winter quarter. The Site Location of Development Law accounted for just under half of the cases. Consent agreements were attempted in 26 cases in the fall, and 21 cases in the winter. See Tables 1, 2 and 3 for further details. Consent agreements resolved and pending are listed in Tables 4a and 4b. Examples of the types of enforcement and licensing issues handled by the DEP Land Bureau staff during the reporting period are summarized in Tables 5a and 5b.

##### B. DEP - Developing Maps for the Sand Dune Law

A Memorandum of Understanding for the conduct of this project by the Maine Geological Survey (MGS) was signed in September, 1985 by the MGS, the DEP and the SPO in accordance with the Interim Significant Improvement Benchmark for this task. The MGS is to prepare computer-generated maps of 60 miles of Maine's sand dune areas from Kittery to South Portland for use by the DEP in administering the Sand Dune Law. A marine geologist was hired for the project in February 1986 by the MGS.

Work completed during this reporting period consisted of familiarization with the sand dune permitting process, and with the computer digitizing/processing system to be used. Arrangements to obtain Flood Insurance Rate Maps (FIRMs), historic aerial photographs, and new aerial photography were initiated. A meeting of the interdepartmental Sand Dune Working Group was held to discuss progress.

Table 1  
DEP COMPLAINTS IN THE COASTAL AREA

October 1 to December 31, 1985						January 1 to March 31, 1986			
<u>Status</u>	<u>Downeast</u>	<u>Central</u>	<u>Southern</u>	<u>Total</u>	<u>Status</u>	<u>Downeast</u>	<u>Central</u>	<u>Southern</u>	<u>Total</u>
Resolved	7	3	5	15	Resolved	5	5	4	14
Pending	10	13	74	97	Pending	4	9	43	56
Deadfile	4	2	6	12	Deadfile	1	1	17	19
TOTAL	21	18	85	124	TOTAL	10	15	64	89

Table 2

## DEP PERMIT APPLICATIONS IN THE COASTAL AREA

January 1 to March 31, 1986

October 1 to December 31, 1985

<u>SITE LOCATION</u>	<u>DOWNEAST</u>	<u>CENTRAL</u>	<u>SOUTHERN</u>	<u>TOTAL</u>	<u>SITE LOCATION</u>	<u>DOWNEAST</u>	<u>CENTRAL</u>	<u>SOUTHERN</u>	<u>TOTAL</u>
Residential		4	15	19	Residential	2	16	25	43
Industrial/Commercial		5	15	20	Industrial/Commercial	5	3	33	41
Mining					Mining	0	0	3	3
Solid Waste	15	4	5	24	Solid Waste	5	7	12	24
Retail Facilities	1	2	2	5	Retail Facilities	0	0	0	0
<u>WETLANDS</u>					<u>WETLANDS</u>				
Outfalls, Cable, Waterline Seawalls, Erosion Control	4	5	3	12	Outfalls, Cables, Waterlines, Seawalls, Erosion Control	12	8	12	32
Railways, Piers, Ramps, Floats	9	19	6	34	Railways, Piers, Ramps, Floats	17	23	19	59
Dredging	1		1	2	Dredging	1	0	2	3
Dunes		3	12	15	Dunes	1	0	2	3
Fill	1		5	6	Fill	0	1	1	2
<u>SOLID WASTE MANAGEMENT</u>	1		2	3	<u>MAINE WATERWAY CONSERVATION &amp; DEVELOPMENT</u>	0	0	0	0
<u>MAINE WATERWAY CONSERVATION</u>	2			2	<u>WATER QUALITY CERTIFICATION</u>	1	0	0	1
<u>TOTAL</u>	<u>34</u>	<u>44</u>	<u>64</u>	<u>142</u>	<u>TOTAL</u>	<u>43</u>	<u>58</u>	<u>149</u>	<u>250</u>
TOTAL STATE PROJECTS RECEIVED = 286					TOTAL STATE PROJECTS RECEIVED = 378				
CZM TOTAL = 142 = 49.7%					CZM TOTAL = 174 = 46%				



Table 3

## DEP COMPLIANCE INSPECTIONS &amp; ENFORCEMENT ACTIONS IN THE COASTAL AREA

October 1 to December 31, 1985

January 1 to March 31, 1986

Region/ Statute	Compliance Inspections	Consent Attempted	Agreement Resolved	Pending	Referrals Atty. General	Region/ Statute	Compliance Inspections	Consent Attempted	Agreement Resolved	Pending	Referrals Atty. General
Downtown --											
Site Law	4	1	0	1	0	Site Law	2	0	0	0	0
Wetlands Law	10	1	0	1	0	Wetlands Law	4	1	1	0	0
Solid Waste Law	19	3	1	2	0	Solid Waste Law	4	2	1	1	0
Central --											
Site Law	5	0	0	0	0	Site Law	3	0	0	0	0
Wetlands Law	3	0	0	0	0	Wetlands Law	0	0	0	0	0
Solid Waste Law	10	6	2	4	0	Solid Waste Law	0	5	1	4	0
Southern --											
Site Law	1	1	0	1	0	Site Law	0	1	0	1	0
Wetlands Law	4	9	1	8	0	Wetlands Law	0	7	4	3	0
Solid Waste Law	14	5	0	5	0	Solid Waste Law	4	5	0	5	0
TOTAL COASTAL											
Site Law	10	2	0	1	0	TOTAL COASTAL					
Wetlands Law	17	10	1	8	0	Site Law	5	0	0	1	0
Solid Waste Law	43	14	3	11	0	Wetlands Law	4	5	5	3	0
TOTALS	70	26	4	22	0	Solid Waste Law	8	7	2	10	0
						TOTALS	17	21	7	14	0

Table 4a

DEP CONSENT AGREEMENTS IN THE COASTAL AREA

October 1 to December 31, 1985

Resolved

1. Town of Damariscotta - Damariscotta  
- Violation: Solid Waste  
- Required: interim operation improvements, landfill closure, \$500.00 penalty
2. Richard Condon - Augusta  
- Violation: Solid Waste  
- Required: solid waste removal, \$875.00 penalty
3. Claude Dubois Excavating, Inc. - Biddeford  
- Violation: Coastal Wetlands  
- Required: permit application, \$3,000 penalty
4. Sawyer Environmental Recovery Facility, Inc. - Hampden  
- Violation: Solid Waste  
- Required: remedial action plan, possible future penalties

Pending

1. City of Augusta - Augusta  
- Solid Waste
2. City of Belfast - Belfast  
- Solid Waste
3. Sawyer Environmental Recovery Facility, Inc. - Hampden  
- Solid Waste
4. Town of Boothbay - Boothbay  
- Solid Waste
5. Town of Sedgwick - Sedgwick  
- Solid Waste
6. Town of Brooklin - Brooklin  
- Solid Waste
7. Marcelle J. Whitney - Hampden  
- Coastal Wetlands
8. George D. Craig - Bangor  
- Site Location
9. New England Baptist Council - Old Orchard Beach  
- Coastal Wetlands
10. Edward McCarthy - South Portland  
- Coastal Wetlands
11. John Schafer - Biddeford  
- Coastal Wetlands
12. Arlene Lefebvre - Biddeford  
- Coastal Wetlands
13. Josephine McAteer - Biddeford  
- Coastal Wetlands (Dunes)
14. Town of Wells - Wells  
- Coastal Wetlands (Dunes)
15. Harry C. Crooker - Brunswick  
- Coastal Wetlands
16. H.C. Crooker & Sons, Inc. - Brunswick  
- Coastal Wetlands
17. H.C. Crooker & Sons, Inc. - Topsham  
- Site Location
18. H.C. Crooker & Sons, Inc. - Brunswick and West Bath  
- Solid Waste
19. Blow Brothers, Inc. - Old Orchard Beach  
- Septage
20. P & D Waste Transfer, Inc. - Old Orchard Beach  
- Solid Waste
21. Town of Yarmouth - Yarmouth  
- Solid Waste
22. Town of Topsham, -Topsham  
- Solid Waste

Table 4b

DEP CONSENT AGREEMENTS IN THE COASTAL AREA

January 1 to March 31, 1986

Resolved

1. Town of Brooklin - Brooklin
  - Violation: Solid Waste
  - Required: landfill closure and \$1000.00 penalty
2. Town of Damariscotta - Damariscotta
  - Violation: expansion of existing landfill
  - Required: Amendment to closing plan and consent agreement, removal of waste
3. Arlene Lefebvre - Biddeford
  - Violation: Sand Dunes
  - Required: remove part of structure- permit application for remainder
  - removal, if denied - revegetate area - \$800.00 penalty
4. Josephine McAteer - Biddeford
  - Violation: Sand Dunes
  - Required: permit application - remove fill, if denied - \$900.00 penalty
5. Edward McCarthy - South Portland
  - Violation: Coastal Wetlands
  - Required: Construct riprap according to permit - remove excess fill
  - \$150.00 penalty
6. John Schafer - Biddeford
  - Violation: Sand Dunes
  - Required: permit application - remove structure, if denied - revegetate area - \$800.00 penalty
7. Town of Sedgwick - Sedgwick
  - Violation: Solid Waste
  - Required: operational improvements, closure, and \$1,000.00 penalty
8. Marcella J. Whiting - Hampden
  - Violation: Coastal Wetlands
  - Required: permit application, remedial action, and \$400.00 penalty

Pending

1. Ronald S. Anderson - Steuben
  - Solid Waste
2. City of Augusta - Augusta
  - Solid Waste
3. City of Belfast - Belfast
  - Solid Waste
4. Blow Brothers, Inc. - Old Orchard Beach
  - Septage
5. Town of Boothbay - Boothbay
  - Solid Waste
6. George D. Craig - Bangor
  - Site Location
7. Harry C. Crooker - Brunswick
  - Coastal Wetlands
8. Harry C. Crooker - Brunswick
  - Coastal Wetlands
9. Harry C. Crooker & Sons, Inc. - Topsham
  - Site Location
10. H.C. Crooker & Sons, Inc. - Brunswick & West Bath
  - Solid Waste
11. P & D Waste Transfer, Inc. - Old Orchard Beach
  - Solid Waste
12. Sawyer Environmental - Hampden
  - Solid Waste
13. Town of Topsham - Topsham
  - Solid Waste
14. Town of Wells - Wells
  - Coastal Wetlands (Dunes)
15. Town of Yarmouth - Yarmouth
  - Solid Waste

Table 5a

DEP ENFORCEMENT SUMMARIES

October 1 to December 31, 1985

1. Homeland Gravel Pit - Saco

Staff is assisting A.G.'s office to gather evidence for prosecution of permit holders. Pit received DEP license in the 1970's. Conditions of the permit were not followed. Siltation of a stream and a hazard to public safety caused by steep slopes are issues. Case had been referred in 1984.

2. William Meredith - York

Staff is assisting A.G.'s office to gather evidence for prosecution of subject for wetlands violations. Highly visible violation referred to the A.G. in 1985.

3. Old Orchard Beach - Town Transfer Station & Stump Dump

Staff is assisting A.G.'s office to prepare suit against town. Various violations of permit conditions and open burning at facility are issues. Case was referred in 1985.

4. P & D Waste Transfer, Inc. - Old Orchard

Staff is attempting to resolve a significant case of improper handling and storage of asbestos.

5. Merrill Cargo Port - Portland

Staff assisted neighbors to the bulk cargo port in having the BEP reopen the license. The Board will reexamine noise produced at facility and set standards after a public hearing. Neighbors claim noise levels are greater than those described in the original application to BEP.

January 1 to March 31, 1986

1. Anderson Landfill - Steuben

A consent agreement has been drafted regarding violations found at Downeast Disposal, Inc., a private landfill owned by Ronald S. Anderson and located in Steuben, Maine. The violations of the Solid Waste Management Rules included no application of daily cover and incomplete application of final cover on inactive areas of the landfill. The consent agreement includes, in part, provisions for the development of a ground and surface water monitoring program for the landfill.

2. City of Belfast - Belfast

Staff is currently negotiating a consent agreement with the City to close its landfill which has encroached on a neighboring property and is contaminating ground and surface water. An engineer firm is drafting a closing plan and installing monitoring wells.

3. Eliot Transfer Station - Eliot

Open burning at town run transfer station caused visibility problems for local airport and neighbors. Staff worked with Town to correct problem. Town hired extra workmen.

4. Garnache Gravel Pit - Biddeford

Staff is assisting A.G.'s office to gather evidence for prosecution. Complaint has been filed. Operator has no permit for 15 acre gravel pit. Issues include flooding damage to neighbor's property and siltation of stream. Case referred in 1982.

5. Sawyer Environmental - Hampden

Staff has investigated and is attempting to resolve a significant case of improper disposal of special waste in a landfill not licensed for this material. Staff has drafted a consent agreement and is presently negotiating a settlement.

Table 5b

## DEP LICENSING SUMMARIES

October 1 to December 31, 1985

1. Shape, Inc. - Biddeford, Industrial Building Expansion

The applicant, a manufacturer of extruded plastic components for cassette recording equipment, applied for a Site Location permit to expand its facilities in the Biddeford Industrial Park. The proposal was to enlarge an existing building from 56,000 square feet to 107,400 square feet to provide additional warehousing and corporate offices. Shape owns three separate lots in the Industrial Park, each having separate manufacturing facilities on it. Since the three lots were considered to be part of a "common scheme of development" under the Site Location Law, the review of the stormwater management plan included reviewing runoff calculations from all three lots. This was the most important issue in the review. The applicant proposed to install a detention basin to decrease the post-expansion peak flow of stormwater leaving the site. The project was approved.

2. Thayer's Y-Knot Boatyard - North Haven, Piers, Causeway & Dredging

The applicant was a commercial boatyard on North Haven Island. The purpose of the project was to build a facility for a travel lift to enable the boatyard to lift larger boats out of the water. Review of the project involved extensive negotiation with the applicant, involving reductions in the size and extent of the structure and fill to be placed in the intertidal zone. The project had 3 parts:

- Dredging a channel for boat access leading from deeper water to the Boatyard.
- Removing an old granite dock from the intertidal zone.
- Building new finger piers using the salvaged granite; and constructing a narrow causeway from the upland to the piers.

As originally proposed the fill would have covered a much larger adjacent area, to be used as boat storage. Staff felt that the fill was excessive, and that upland area was available for boat storage. The evidence did indicate, however, that severe winter ice build-up prohibited pile supported construction as an alternative to the fill. The applicant twice reduced the size of the area to be filled, finally arriving at the minimum amount that the travel lift could operate on. The total area lost to new fill was comparable in size to the total area regained through removal of the old dock. The staff felt that the net effect was a wash, in terms of habitat impact. In addition, the applicant agreed to implant the high marsh vegetation from the fill site to an adjacent area. The project was taken to the Board for a decision. The Board approved the project.

3. Sawyer Environmental Recovery Facility, Hampden - Secure Landfill II

Sawyer Environmental Recovery Facility of Hampden (SERF) proposed the construction of a commercial 8.7 acre Secure Landfill Site and associated leachate collection and management system for the disposal of oil ash, coal ash, ancillary power station waste, municipal solid waste ash, wood ash and oil spill debris. SERF was given conditional approval under the Site Location of Development Law by the Board of Environmental Protection on June 12, 1985 for this landfill. From June to December of 1985, in order to comply with the Conditions of the Board Order, SERF submitted to the Department for review, testing results of the landfill liner material, an operation manual, a contingency plan for leachate disposal, ground water monitoring information, etc. which was approved by the Department in December of 1985. In addition, on December 18, 1985 the Board approved a request by SERF to amend the June 12, 1985 Board Order to allow disposal of other compatible wastes as well as waste oil and non-recoverable used oil at the landfill. Review of this information and the amendment request involved many hours of review time by staff from October through December. All on-going conditions of the June 12 Board Order have now been met for Phase 1 of the Secure Landfill and the Landfill has now begun operations.

4. U.S. Army Corps of Engineers - Jonesport, Navigation Improvements

In November of 1979, the U.S. Army Corps of Engineers received a Consistency Determination Concurrence with the Coastal Wetlands Alteration Act and was issued a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act for Navigation Improvements proposed to be undertaken in Jonesport Harbor. Due to funding, the Corps never proceeded with the project. Since funding became available in 1985, on October 15th, the Corps again requested from the Department the issue of a Consistency Determination Concurrence and a Water Quality Certification for the project.

The project involves dredging of a 100 foot wide, 8 foot deep entrance; the construction of two anchorages of 9 and 6 acres; and the construction of a 1200 foot rubble mound and cellular steel sheet pile breakwater. After review of the project design by staff, the Department re-issued the Consistency Determination Concurrence and Water Quality Certification on December 17 with the condition that proposed construction dates and a water and resource quality monitoring plan be submitted for review and approval prior to construction.

5. John D. Morris - Rockland

Shopping center in Rockland consisting of 165,000 square feet. Center will accommodate two anchor tenants and shops of small retail business. The total site consists of 17 acres which fronts onto Route 1 just north of town. Special provisions for controlling erosion and surface runoff are part of the plans.

Table 5b (Cont.)

6. Maine Mall Road Associates - South Portland  
The project is expected to cost \$5,000,000 and financing will be through Maine Savings Bank. The applicant has provided a plan to control interior traffic within the parking lot with the aid of landscaped barriers. The City will provide for public sewer and water. All solid waste generated by this project will be disposed of at the Rockland Landfill.  
The increase in traffic will require widening Route 1 as well as the installation of a traffic control light.
7. Philbrook Hotel - South Portland  
Shopping center in South Portland consisting of 100,000 square feet on 8.8 acre. The site is located on the Payne Road just north of the existing Maine Mall Shopping center. 72,000 square feet of parking will provide space for 500 cars. Provisions for controlling stormwater also include special provisions for filtering phosphorus before the stormwater reaches Clark's Pond. The increase in traffic will require the installation of a traffic control light as well as some widening of the Payne Road.  
The 5.6 million dollar project will be financed by People's Heritage Bank. Public sewer and water will be provided by the municipality. Solid waste will be disposed of at Regional Waste Systems disposal site in Scarborough.
8. Coastline Inn Limited - South Portland  
The Coastline Inn consists of 54 rooms in a two story building located on the John Roberts Road. Surface water runoff will be controlled by the use of a community storage basin. Phosphorus removal will also be incorporated into the design. The parking lot will be landscaped, screened and will accommodate 56 cars. Public utilities will be provided by South Portland. Financing of \$800,000 project is being provided by State Savings Bank.
9. Stanley Tanger - Kittery  
This project consists of a small shopping center on Route 1 in Kittery. The area involved is 4.9 acres and will provide approximately 50,000 square feet of retail space. Public water is provided, however, on-site sewage disposal will be used. Some trees will remain, but new planting of trees and shrubs will be used around the buildings and in the parking lot to control interior traffic. Financing for the \$3,850,000 project will be financed by Casco Northern Bank.
10. H. R. Hinkley & Co., Manset  
Applicant proposed to install a travelift and place approximately 3270 cubic yards of fill in a wetland in a small cove area in front of their Manset boat building facility. A pre-fab shop on piles was existing in the proposed fill area. The new proposal included tearing down the existing building on piles and filling in the area to build a service center/office building on a concrete foundation.  
The applicant has a demonstrable need for a travelift pier, however, staff felt that there was an excessive amount of fill in the proposal and that it was unreasonable to create upland for the building when there were many upland alternatives available. The staff recommended denial to the Board and the proposal was denied by the Board.
11. Hill Application, Phippsburg  
Applicant is proposing construction of three 2-story residential homes to be built on posts in a C-Zone on Hunnewell Beach in Phippsburg, Maine. The Sand Dune Regulations do not require that a building be built on posts in a C-Zone.  
This project is located in an undeveloped back dune area that contains ancient sand dunes and uncommon pitch pine forests and rare plants. The applicant is purchasing the parcel of land from a land owner who owns a very large parcel of undeveloped land adjacent to this parcel. This is one of the last contiguous parcels of undeveloped land near a sand beach in Maine. There is concern that approval for the proposed three residential homes will result in establishing a precedent for further development in that area. Another concern is that the predicted sea level rise will result in flooding in this back dune area within 100 years.
12. John Phillips - Ellsworth  
On 10/8/85, the Board denied Mr. Phillips application to develop a seepage spreading site in the watershed of Branch Lake, the water supply for Ellsworth. Although the proposed spreading area met the siting requirements of the Department's regulations and presented negligible risk of water polluted, the Board decided that it was inappropriate to locate such a land use in the watershed of a public water supply.
13. Rockport Marine, Inc. - Rockport  
The Board approved the filling of 0.2 acres of coastal wetland for the expansion of a boat yard. The boat yard was competing with the applicant's restaurant business for the limited space available on the applicant's harbor side lot. Expansion by filling of the wetland was the most economical way for the applicant to accommodate both uses.

Table 5b (Cont.)

14. Harry S. Crooker & Sons, Inc. - Topsham

The Department approved Crooker's application for an after-the-fact permit to mine bedrock and remove borrow materials from a pit adjacent to the Androscoggin River. Crooker has appealed the Department's decision to require reclamation of the pit slopes to a grade of 2.5 horizontal to 1 vertical.

15. Steven & Loretta Weigel - Wells

The Weigels were denied an application to construct a duplex on a lot adjacent to Rachel Carson Wildlife Refuge. The lot was located within a tidal mark. Though the house was to be constructed on posts, the Department found that the project would unreasonably harm estuarine and marine fisheries.

16. Town of Perry - Perry

Perry has applied for a permit to operate a transfer station and disposal area for demolition debris next to the Perry Town Office. The site appears to be marginal due to soils limitations and proximity to nearby residences as well as the town office.

17. Diamond Cove Associates - Portland

Diamond Cove proposes to rehabilitate 36 existing buildings into 134 condominium units. The buildings are located on about 90 acres of Great Diamond Island. An additional 100 acres of the site will be subdivided into 74 single family house lots.

Sewerage will be disposed of with subsurface disposal systems on lots where suitable soils have been identified. Lots without suitable soils will be connected to a proposed sand filter system which will be constructed to serve the condominium units. The effluent from the filter system will be discharge to Casco Bay.

The Department has received numerous requests to hold a public meeting on the application. Those requesting a hearing are primarily concerned with the state-wide precedent - setting impact that the project may have. It is an intensive, high density development in a fragile island setting.

January 1 to March 31, 1986

Regional Waste Systems - Portland, Resource Recovery Facility.

R.W.S. applied to the Board of Environmental Protection for permits to construct a 500 ton per day resource recovery facility to serve approximately 20 towns in Southern Maine. Because of the nature of the project and the fact that there were two third parties involved in the application process, ten days of public hearing were necessary in order to adequately review the applications. This \$85 million project was approved by the Board.

Pendscot Energy Recovery Company - Orrington, Resource Recovery Facility.

P.E.R.C. applied to the Board of Environmental Protection for permits to construct a 600 ton per day resource recovery facility to serve approximately 18 towns in South Central Maine. This project also went to hearing, however, many of the permitting issues have been resolved in the R.W.S. proceedings and the hearings took only two days. This \$66 million project was approved by the Board.

Dictar Associates - Falmouth, Residential Complex and Golf Course.

Dictar has applied to the Department of Environmental Protection for a Site Location permit to construct 124 single family dwelling units along with an 18 hole golf course.

New England Baptist Council - Old Orchard Beach, Wetland Reclamation.

The applicant is proposing to fill an abandoned salt water swimming pool and recreate a productive coastal marsh. The project will require bringing in fill material to level the depression and then marsh vegetation will be planted.

Bangor Hydro-Electric Company - Ellsworth, Project Relicensing.

The applicant proposes to relicense the existing Ellsworth Hydroelectric Project, consisting of the Ellsworth Dam and Powerhouse (9.8 MW), Graham Dam, Lake Leonard, and Graham Lake. Environmental concerns include the impacts on continued project operation on: Recreation and other public uses of Lake Leonard and Graham Lake; Anadromous Restoration Programs for Atlantic Salmon and Alewives; and Water Quality in the lakes and the Union River below the project.

Table 5b (Cont.)

Great Salt Bay Sanitary District - Damariscotta, Treatment Facility.

The District has applied for a Site Location Permit to construct three aerated lagoons with associated control structures and access roads. The project is part of the DEP/EPA mandated Capital Improvements Project to collect and treat wastewater generated by the Towns of Damariscotta and Newcastle.

Ultrasonics, Inc. - Jonesboro, Power Plant Modifications.

The applicant received approval to develop and operate a wood-fired power plant on March 27, 1985. The company has now requested a revision to the site plans involving changes in the configuration of the structures on the site. The changes proposed will require changes in the stormwater management system.

Richard Hill - Phippsburg, Residential Dwellings.

The applicant owns an option on a parcel of land on Hunnewell Beach for which he proposes the construction of three single family dwellings supported on posts. This parcel of land is located on the back dune area of a sand dune system in a C flood zone. The project area consists of undeveloped pitch pine forest and intermittent wetlands with cranberry bogs.

There has been substantial opposition to this proposed project from review agencies and from the public. The State Coastal Geologist, The Natural Resources Council of Maine and the Maine Audubon Society all believe that the sea level will rise several feet within the next 100 years and, as a result, the Hunnewell Beach Shoreline will be near or landward of the proposed site.

The Department staff felt that the significant question of sea level rise and the erosion/accretion cycles at Hunnewell Beach were substantial enough to request a public hearing. The Board on February 26, 1986 approved the request for hearing. No hearing date had been set as yet.

U.S. Army Corps of Engineers - Kennebec River, Maintenance Dredging.

The A.C.E. proposes to dredge approximately 50,000 cubic yards of material from the Doubling Point Reach area of the Kennebec River. The work will be performed by a Government Hopper Dredge over a 10 day period between September 15 and October 1, 1986. Dredged material will be disposed of at an "in river" site with depths ranging from 82 to 100 feet. This site is 1.7 miles south of the dredge area.

EAR Development Corporation - Scarborough, Condominiums.

The applicant is proposing to construct 3 condominium units on a 50,000 square foot parcel of land considered to be a mixture of coastal sand dune and coastal wetland. This parcel is located in an "A" flood hazard zone. The units will be constructed on posts even though the applicant proposes to fill to create a back dune ridge and flat which would increase the elevation of the of the parcel above the 100 year flood elevation. The project includes a public access area to provide access to nearby Jones Creek and the Scarborough River.

Sheepscot River Associates - Wiscasset, Motel.

The applicant proposes to construct a 3 story Inn to be located on the western bank of the Sheepscot River. The building will involve 32,000 square feet of coastal wetland area. The project will be constructed on posts and will extend out into the wetland 240 feet and will affect 195 feet along the shore. Concerns regarding the project are the impacts the project will have on the wetland area and the projects compatibility with existing recreational uses of the area. This area is popular in that there are two historic schooners adjacent to the proposed development site.

Diamond Cove Development - Great Diamond Island, Portland, Residential Development.

Diamond Cove Associates proposes to renovate 36 former military structures into 134 residential dwelling units and to subdivide about 100 acres of surrounding property into 74 lots for single family residential use. The project has been scheduled to go to public hearing in April.



The system development phase is expected to be completed by July, with actual map production to be completed between August and December, 1986. The Final Significant Improvement Benchmark for this task was changed to December 15, 1986. Expansion of the project to include coastal barrier beaches and wetlands, salt marshes, tidal flats, etc. not otherwise covered was proposed by the Coastal Advisory Committee for funding for 1986-87.

C. MMA - Code Enforcement Officers' Assistance Program

When the hiring by MMA of a full-time attorney to assist local CEOs could not be undertaken as planned, SPO and MMA renegotiated activities to be undertaken in this task. The Maine Municipal Association's legal staff will undertake the following revised activity schedule:

- a) Prepare case summaries of Rule 80K legal actions from District Court records in 8 selected coastal areas.
- b) Interview Judges, Attorneys, and local Code Enforcement Officers to determine the perceived strengths and weaknesses of Rule 80K.
- c) Prepare a report summarizing findings from the interviews and case studies, and recommend necessary actions for improvement.
- d) Revise as necessary the Rule 80K Code Enforcement Handbook for local officials.
- e) Draft amendments to the State law and Rule 80K to implement report recommendations.
- f) Prepare two articles for the MMA magazine for local officials on the subject of local code enforcement and Rule 80K.

These tasks will be undertaken by MMA during the summer months and will be completed in September, 1986.

D. NRCM - Public Education about Maine's Land Use Laws

A Project Steering Committee met three times to develop concepts and background for the two television public service announcements (PSA's) and the poster. The Committee agreed that the television PSA should focus on the issue of development pressures along the coast and the need to manage that development. It was also

agreed that the poster should focus on informing the public about State and local land use laws and where to find out more about them.

Work on one television PSA was nearly complete by the end of March. (It has since been completed and delivered to television stations.) Work on the poster was also begun. The poster will be distributed throughout the coastal area for display in town offices, libraries, etc.

Once T.V. station and public reaction to the first PSA is measured, a second PSA will be produced by the end of the grant period. All aspects of the project are on or ahead of schedule.

E. Regional Councils: Technical Assistance to Communities

There are 144 communities comprising Maine's coastal area. Maine's Coastal Program relies on the Regional Councils serving these communities to provide much of the local technical assistance to planning boards and other local groups. This assistance includes technical reviews of major subdivision and development proposals requiring local approval, updating local zoning and land use regulations and a wide variety of other tasks. Because the majority of coastal towns in Maine do not employ full-time planners, the assistance provided by these agencies is relied upon by many communities.

Five key local assistance tasks are being undertaken by the 6 coastal regional councils with Coastal Program funds this year. The tasks are:

- o Improving Local Shoreland Zoning - Regional councils will provide specialize shoreland zoning technical assistance to coastal communities with needs identified in earlier assessment work. Technical assistance will focus on improved ordinances, local administration and enforcement.
- o General Planning and Zoning Technical Assistance - Assistance to local planning boards, local boards of appeals, code enforcement officers and other local boards reviewing major development proposals and formulating local coastal policies. Products will vary based on the needs existing in each region, including workshops, model ordinances, revised ordinances, etc.

- o General Training - Provide general training opportunities for local planning boards and boards of appeals on basic duties and responsibilities. Training will include at least one workshop in each region.

Representatives from the regional councils, the Maine Municipal Association and SPO met several times to discuss the statewide coordination of workshops for local officials. Initially, a list of significant local planning issues was compiled and prioritized. The need for a uniform agenda for local planning boards, boards of appeals and code enforcement officers workshops resulted in review of outlines currently used by the several regional councils. All regional workshops will be publicized in the Maine Townsman to insure that local officials have adequate notification of both basic and special interest presentations.

- o Capital Improvements Planning - Regional Councils will assist the State Planning Office in distributing a Local Capital Improvements Handbook prepared by the State Planning Office and may provide additional assistance based on regional needs.
- o Growth Management Special Assistance - This task will allow each Regional Council to focus on local technical assistance specialized to meet specific local needs in their region.

Each council developed a proposal and submitted it to the State Planning Office by February 1st. Activities undertaken under this task vary from specialized harbor management and groundwater protection workshops in Hancock County, coastal flooding studies and development of local management options in the Southern Kennebec and Mid-coast regions, to improved local mapping in Southern Maine to complement ongoing cumulative impact of development planning.

F. Shoreland Zoning Administration (starting October 1, 1985)

The Shoreland Zoning Law was amended by the 1985 Legislature to shift State agency oversight responsibility after July 1, 1985 from the State Planning Office to the Department of Environmental Protection. The SPO and the DEP signed a Memorandum of Understanding to continue Coastal Program support of

this function, effective October 1, 1985. The key position of DEP Shoreland Zoning Coordinator was approved by the State Department of Personnel in late December. Interviews commenced in mid-February, but the position was not filled until after the end of this reporting period. In the interim, the SPO continued providing shoreland zoning technical assistance to local officials and the public, answering numerous inquiries daily.

The SPO also carefully followed a challenge to the Shoreland Zoning Law in Old Orchard Beach. In April 1985, the town Board of Appeals granted a 70 foot height variance to a developer proposing to build a 142 foot-high condominium tower. This variance opened the way for the construction of the tallest building on Maine's coastline; double the allowable height under the Town's own zoning ordinance. A neighborhood group successfully challenged the decision in York County Superior Court. On March 7, 1986, the Court revoked the variance upon finding the defendant had not satisfied all the necessary criteria of the undue hardship test. (See clipping reproduced on the following page.)

Task 2. Local Program

A. Coastal Planning Grants

Well in advance of Interim Significant Improvement Benchmarks for this task, awards to 18 communities totalling \$178,189 were announced on September 20, 1985, as shown in Table 6. Contracts were drafted and work commenced on all of them during the reporting period, with two exceptions: the Belfast City Council voted not to go ahead with the Commercial Street Wharf study, and a special York Town Meeting voted not to accept their grant for a harbor parking feasibility study. Comments on the status of various projects are as follows:

# Court chops down beachfront tower

By SID LEAVITT  
York County Bureau

**OLD ORCHARD BEACH** — A local businessman won't be allowed to erect the Maine coastline's tallest building.

Danton Towers, a proposed 142-foot-high oceanside condominium, lost one of two necessary local approvals in a ruling issued from York County Superior Court Monday. While upholding a use permit granted by the Planning Board last April, Judge G. Arthur Brennan

struck down a height variance issued a short time later by the Zoning Board.

The Zoning Board granted a variance that would have allowed the building to be more than double the maximum height allowed under the town's 1982 shoreland zoning ordinance, a measure that itself had liberalized the town's previous shoreland height limit of 35 feet.

A group of neighbors known as the Grand Beach Association challenged the project in court nine months ago, later getting "friend of the court" support from both the Maine Department of Environmental Protection and the Maine Audubon Society.

Summarizing his 24-page decision, Brennan said attorneys for William M. Danton, who manages his family's properties here, hadn't shown adequate grounds for a hardship required by the variance.

Danton originally had proposed an eight-story, 164-unit project that would have meant destroying the family estate, known as the Snow Mansion because it once was owned by the Chowder family. When residents and some Planning Board members said they would like to see the mansion saved, Danton's attorney returned to the board with an alternate plan, again for 164 units but in a 16-story configuration with the mansion moved to one side of the family's oceanside property.

Danton's attorneys had argued that the Planning Board had made saving the mansion a requirement of its conditional use permit, but Brennan said the applicant had volunteered to come up with the alternate plan.

"The defendant voluntarily withdrew his first plan on the basis of an informal poll of three members of the board, and their recorded responses cannot reasonably be interpreted as support for a decision to require the preservation of the Danton family house," the judge wrote.

Both the state environmental agency and the Audubon Society had argued that such a tall building would destroy the integrity of Maine's shoreland zoning laws, a tough set of measures against which town officials had to negotiate for months before getting state approval for their 1982 ordinance.

That local ordinance led to a boom of oceanside high-rises here, encouraged by town officials anticipating a large amount of new tax revenue.

Brennan didn't comment on the "friend of the court" matters except to rule that the DEP and Audubon Society had standing in the case.

Even if Danton could have proved that the Planning Board required him to save his family mansion, Brennan said the applicant's argument for a hardship before the Zoning Board would have failed another statutory test — lack of a reasonable return on property without the variance.

An appraiser for Danton had testified that the 142-foot-high design would have returned \$3.2 million while a 70-foot-high project, also with the mansion saved, would have returned only \$2.1 million.

However, Brennan said either figure would be a reasonable return, and he noted precedents in Maine law holding that "reasonable" doesn't necessarily mean "maximum."

Table 6  
1985-86 COASTAL PLANNING GRANTS

<u>COMMUNITY</u>	<u>PROJECT</u>	<u>GRANT</u>
Augusta	Kennebec River greenbelt area planning	\$ 5,000
Belfast	Belfast Waterfront: Commercial Street Wharf Planning & Feasibility Study	10,000
Boothbay Harbor	Waterfront Development and Revitalization Study	11,044
Bucksport	Waterfront Development and Revitalization Study	10,825
Cape Elizabeth	Impact Study of Cape Elizabeth Park Areas	8,000
Cutler	Cutler Harbor Revitalization, Development & Management Project	12,000
Freeport	Freeport Bedrock Aquifer Protection Project	10,000
Islesboro	An Inventory of Public Shoreland Access on Islesboro	4,640
Kennebunk/ Kennebunkport/ Arundel	River Report & Coordinated Local Ordinance Package to Protect the Kennebunk River Basin	13,900
Machiasport	Bucks Harbor Revitalization, Development & Management Project	12,000
Portland	Groundwater Management Study	20,000
Randolph	Randolph Riverfront Development Plan	6,250
Rockport	Rockport Capital Improvements, Plan	10,600
South Thomaston	Town Wharf & Boat Landing Improvement Study	3,000
Vinalhaven	Vinalhaven Waterfront Development Project: Harbor Management Study and Town Landing Improvement Study	10,000
Waldoboro	Medomak River Use Study	11,250
Wells	Growth Management Plan for Wells: Growth Management Ordinance Revisions and TDR Ordinance	7,500
York	York Harbor Public/Access Feasibility Study	6,180

- o Augusta - The City has formed a citizens advisory committee and an advisory committee of State agencies and hired a consultant for its Kennebec River greenbelt planning study. Inventories of current land use and ownership along the east bank are in process.
- o Boothbay Harbor - Final products have been received for this project, in the form of preliminary engineering and management plans for a fish pier. The town is hoping for CDBG and Coastal Action grants to aid in project implementation.
- o Bucksport - The town's consultant completed a waterfront marketing analysis entitled Bucksport Marina Market Feasibility Study. The report, which includes a recreational boating survey, concluded that the Bucksport market area can support a 50 to 70 slip marina and recommended several measures for enhancing its success. The town also received design drawings for its overall waterfront park plan, prepared by the U.S. Soil Conservation Service.
- o Cape Elizabeth - The town is awaiting results of a survey of three neighborhoods impacted by park activity to determine the nature and seriousness of the impacts.
- o Kennebunk/Kennebunkport/Arundel - Completion of resource maps for the Kennebec River finishes a major portion of this project.
- o Randolph - A market study of the waterfront and downtown area has been completed in conjunction with the town's Community Development Block Grant project.
- o Rockport - The town has hired a consultant and is obtaining preliminary engineering information on top priority projects for its capital improvements plan.
- o South Thomaston - The town received engineering drawings for rehabilitating its town wharf and boat landing, and subsequently applied for a Coastal Action Grant for the reconstruction work.
- o Waldoboro - As part of its Medomak River Use Study, the town has completed preliminary engineering for rebuilding its in-town pier and applied for a Coastal Action Grant for implementation.

- o Wells - Growth management and TDR (transfer of development rights) ordinance provisions have been completed. Final products are in draft form.

B. Waterfront Action Grants (306A grants)

Maine Coastal Program Waterfront Action Grants were announced on February 14, 1986. Types of projects eligible for funding include acquisition and development of coastal shoreland for public access purposes; low cost shoreline construction projects, such as small waterfront parks, pathways to the shoreline, and natural areas interpretation; and acquisition or rehabilitation of piers to improve public access opportunities to the water. Grants may not exceed \$50,000 and require a 20 percent local match. Projects must be completed this summer. Five competitive guidelines for evaluating competing projects were included in the application package: (1) increase in access/use opportunity, (2) project preparedness, (3) immediacy of need, (4) adequacy of the needs assessment, and (5) previous use of Coastal Program funds for planning the project.

Special Award Condition A.4 requiring submittal to NOAA/OCRM of budget information for Section 306A activities was changed to May 1, 1986, with accompanying change in related Interim Benchmarks. In compliance with these benchmarks, OCRM was provided with the announcement letter and application packet for Waterfront Action Grants (containing eligibility guidelines, competitive criteria, etc.) by letter of April 2, 1986.

Task 3. Interagency Coordination

A. Federal Consistency (starting October 1, 1985)

The major federal activity reviewed for consistency during this period was the U.S. Air Force's proposed GWEN Radio Tower in Castine. The Air Force leased 20 acres of land on a hill on the Castine peninsula last summer and announced plans to erect a 300 foot radio tower by fall, 1986. "GWEN" stands for Ground Wave Emergency Network. It is part of the Air Force's national defense system linking strategic air bases via low-frequency radio waves, which would be unaffected by electromagnetic pulses emitted by nuclear weapons detonated in the atmosphere above the United States.



Local concerns were raised concerning the proposed Castine GWEN tower, including the visual impact of a 300 foot tower in an area noted for its scenic and historic values, and the proximity of the tower to existing homes.

This Office notified the Air Force in October that a consistency determination for the GWEN tower proposal was required since it directly affected Maine's coastal zone. Additional information on the proposed tower and the site selection criteria used by the Corps was also requested.

Subsequent to the receipt of additional information from the Air Force, the State Planning Office notified the Air Force in December that the proposed tower in Castine was not consistent with Maine's Coastal Program because the Air Force's consistency determination failed to provide sufficient information on: a) alternative GWEN tower sites having less visual impact and b) nearby historic resources and the proposed tower's impact on them. The SPO requested specific additional information needed to review the proposed project.

No further Air Force response was received by either the Town of Castine or the SPO for several months. During this time, uncertainty and rumors circulating about the Air Force proceeding as planned attracted considerable attention by the press.

In early March, 1986, Governor Joseph E. Brennan wrote to the Air Force expressing his grave concern and strong disappointment over how planning for the GWEN tower was being handled, and reminded the Air Force that the Castine site wasn't consistent with Maine's federally-approved Coastal Program.

Subsequent to the Governor's letter, Air Force Major General Thomas Brandt came to Augusta to meet with the Governor, local officials from Castine and Sherman (a non-coastal town also slated to receive a GWEN Tower), and State Planning Office staff. The result of this meeting was agreement that the Air Force would look for alternative tower sites which were more acceptable to State and local officials.

The State Planning Office has been working with local officials and the Air Force since the meeting to facilitate the identification of more suitable tower sites.

B. Coastal Advisory Committee (starting October 1, 1985)

The Coastal Advisory Committee met on October 17, 1985 to discuss draft legislative proposals to be submitted by the Governor in January, 1986, (1) to clarify public rights in the intertidal area, (2) to establish coastal management policies, and (3) to create a shoreline access protection fund. The Committee was briefed on the findings of its public access subcommittee and also discussed 1985-86 Coastal Program work program tasks. (See Appendix B for the Minutes of the Meeting.)

In February, 1986 the staff solicited the Coastal Advisory Committee for special project proposals for Coastal Program funding for 1986-87. Committee members subsequently were asked to review and rank the twenty-four proposals received, in preparation for meeting in April to select projects for funding.

Task 4. Local & State Program Administration

A. Technical Assistance & Local Grant Administration  
(starting October 1, 1985) (See Tasks 2.A & 2.B.)

B. State Program Administration (starting October 1, 1985)

Top priority during the reporting period was given to development and passage of coastal legislation. L.D. 2167, "An Act to Enhance the Sound Use and Management of Maine's Coastal Resources," drafted by the Coastal Advisory Committee and SPO staff, was introduced by the Governor in January. The bill was designed to sustain traditional maritime pursuits and public access to the water in the face of burgeoning development pressures, as well as to make a comprehensive declaration of State coastal policy. (See also the "Issues and Accomplishments" section of this report.)

Success in achieving enactment of this bill may be attributed in part to (1) development and publicizing of a highly effective 20-minute narrated slide program entitled The Maine Coast: A Time of Change, and (2) public presentation of issues and proposals at over fifty meetings up and down the coast, including chambers of commerce, public service groups, and special public meetings organized with the assistance of each of the regional planning agencies, county extension offices and the RC&D Areas. Several representative news clippings are reproduced on the following pages.

# Voters in county urged to support proposals to preserve Maine coast

By Herb Cleaves  
Down East Bureau

**MACHIAS** — Voters of Washington County were urged Tuesday by a member of the staff of the State Planning Office to help preserve the Maine coast by supporting proposed legislation and coastal bond initiatives totalling \$9.6 million.

Gro Flatebo, who substituted for Richard Barringer, director of the State Planning Office, said that about 12 percent of the land in the state bordered on the coast and that half of the population of Maine lived on that land. At least 60 percent of the jobs in the state were located in the coastal zone, she said.

"The population of half a million year-around increases to 4 million in the summer, placing a great stress on this area," Flatebo said.

Flatebo described the Maine coast as "a special place" that was being forced to change because of an onslaught by developers. A recent survey of York County showed that \$20 million was spent by developers last year alone and that only eight pieces of coastal land there remained available for acquisition.

"The amount of tourist traffic has doubled in 10 years," she said. "Tourists to Maine in the summer now represent the combined populations of the states of Rhode Island and Connecticut."

After presenting a slide show that showed the contrast between the highly developed coast of southern Maine and the rocky headlands of Washington County with its extreme tides and dominant fishing industry, Flatebo discussed protective legislation and three bond issues that were proposed earlier this month by Gov. Joseph E. Brennan.

The legislation, she said, would be designed to allow municipalities to exact rights to public access in coastal subdivisions, manage hazardous areas such as flood-prone wetlands and barrier sites, encourage the location of water-dependent industries along the coast and protect natural areas.

Flatebo said that the bond issues, if approved, would involve spending a total of \$9,565,000 to improve the coast.

The Maine Shoreline Access Fund, administered through the Department of Conservation, would provide \$5 million for state and local acquisition and development of public-access areas along the coast. Half of the total amount would be available to municipalities. The fund would ensure that as the coastline became more heavily developed, opportunities for harvesters of shellfish and marine worms would not be lost.

The Waterfront and Pier Rehabilitation Program, administered through the Department of Transportation, would provide \$4 million to coastal communities for fish piers and other commercial waterfront improvements. More than \$10 million in match-

ing federal funds were expected to be available when the program started, Flatebo said.

Also, the Marine Laboratory Development Project, administered by the Department of Marine Resources, would receive \$565,000 to improve the laboratory facilities and enhance management of the state seafood industry.

During a public discussion, Jean-Pierre Ragot of Bucks Harbor, a fisherman, said that he was under the impression that proposed federal budget reductions would eliminate the possibility of the federal government's matching state money on any projects.

Flatebo agreed that federal budget cutting might pose problems, but had no specifics available about the proposed state projects.

R.S. Nielsen of Whiting said that \$5 million seemed to be "a pittance" if the state planned to make a sincere effort to acquire access to the coastline from Kittery to Eastport.

John Pike Grady of Eastport said that, excepting port improvements in his community, little money had been spent in Washington County that benefited the coast. As development spreads north and east, he said, Mainers "will see the last piece of fat go into the frying pan."

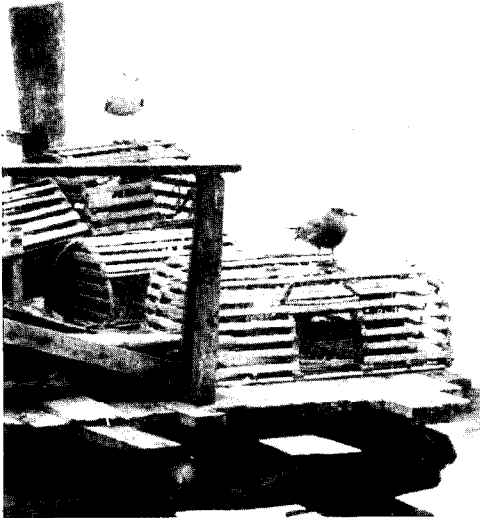
The meeting was sponsored by the Cooperative Extension Service, represented by John Ahlin, and by the Washington County Regional Planning Commission, represented by Nick Greer.

1-29-86

Bangor Daily News

Downeast Edition

# The Maine Coast:



a time  
of  
change

A TWENTY MINUTE NARRATED SLIDE PROGRAM IS NOW AVAILABLE FOR YOUR GROUP describing the Maine coast, its most pressing management issues and a legislative initiative to enhance the sound use and management of coastal resources.

The Maine coast encompasses only 12% of the State, yet it contains nearly half the State's population and 60% of its job opportunities. Governor Brennan's Coastal Advisory Committee determined that growth and development in the coastal area is a critical issue the State must address. While the southern coast is experiencing unprecedented growth, other parts of the coast are changing as well.

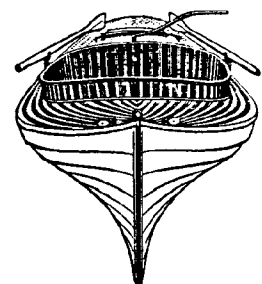
Four major changes on our coast are most in need of attention. First, there is tremendous competition for our limited shoreline. Restaurants and condominiums are joining commercial fisheries and other marine-related uses on the shorefront. Conflicts in Maine's harbors, fueled by increasing property values, are at a critical point.

Public access to the shoreline is disappearing. Despite the importance of tourism, to the State's economy, and the desire of most residents to visit the coast, only 3% is publicly owned -- the smallest percentage of any state in the nation.

Development in flood-prone areas needs better management. The 1978 winter storms caused \$47 million in damage along the coast. Since then, shoreline development has mushroomed, increasing the likelihood of higher damages in future coastal storms.

Finally, the pressures of growth are threatening those natural and historical features which make Maine unique. As these areas disappear, we are losing our heritage and important natural areas.

The Maine coast is our natural resource to develop, manage, protect and enjoy. With careful stewardship, we can maintain its character and integrity for generations to come.



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# The Maine Coast:

a time

of

change

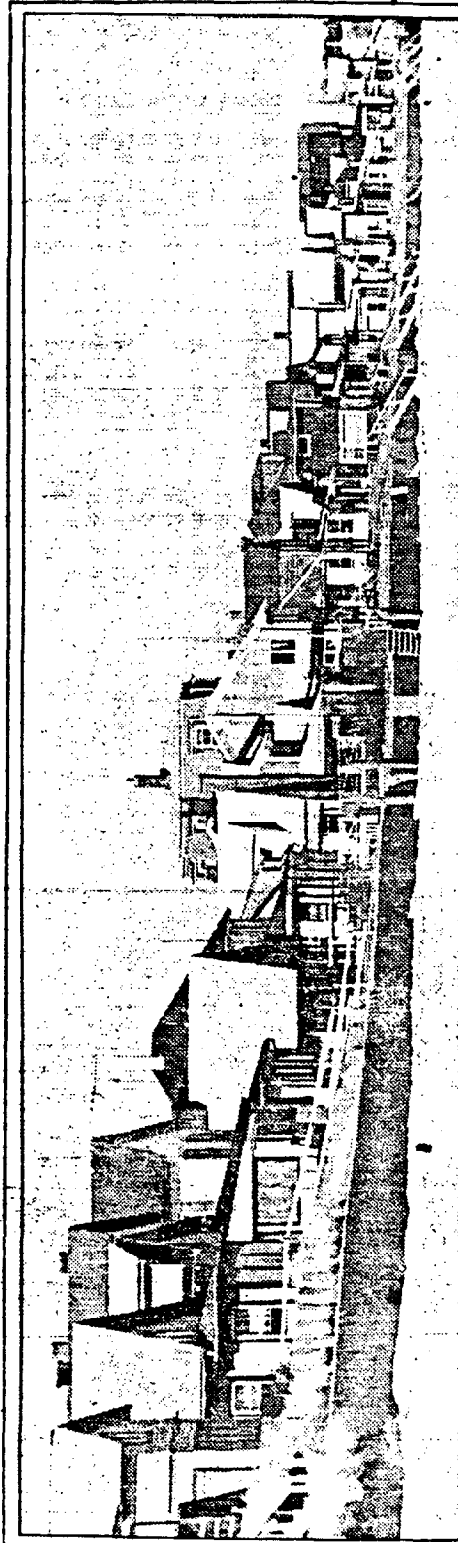
To reserve a showing of **"The Maine Coast: a time of change"**, call Bob Blakesley at 289-3261 or fill out the attached form and mail it to the State Planning Office, State House Station # 38, Augusta, Maine 04333.

Name \_\_\_\_\_ No. of people \_\_\_\_\_

Organization \_\_\_\_\_ Dates wanted \_\_\_\_\_

Address \_\_\_\_\_

telephone (home) \_\_\_\_\_ (office) \_\_\_\_\_



Staff photo by John Ewing

Improved public access to the state's beaches hinges on pending legislation.

## Lawmakers asked to protect coast

By Bob Cummings  
Staff Writer

This may be the year of the coast for the Maine Legislature.

Legislators will be asked to enact the state's first comprehensive program designed to improve public access to the state's coast, to preserve and enhance water-related uses such as fishing, and to protect unique scenic and recreational sites.

The nine-part program is the work of a Coastal Advisory Committee appointed by Gov. Joseph E. Brennan and the staff of the State Planning Office.

The coastal legislation proposes nearly \$10 million in bond issues to provide for public access to the shore, to build ports and harbor facilities and expand the laboratory of the Department of Marine Resources at Boothbay Harbor.

The proposals seek to respond to the explosive growth of development in coastal cities and towns, according to David Keeley, a natural resource planner for the State Planning Office.

Keeley said the plan grew out of increasing concerns by local officials and planning boards concerned with the "unprecedented level of development."

"People are constantly asking us how to manage growth, how to assure public access to the shore, and how do we protect natural areas," Keeley says. "My feeling is that this is really a grass-roots approach."

The proposal is essentially a tool box of laws and financial incentives municipalities can use to help solve coastal problems. Key provisions include:

- A \$4 million bond issue for the rehabilitation of waterfront piers, docks and other facilities.
- Another \$5 million to help cities and towns pay for public access to boating waters, beaches and other public recreation

facilities.

- \$565,000 for improvements to the state's marine research laboratory.

- Authorization for cities and towns to amend their shoreland zoning ordinances to give precedent to marine related activities.
- Expansion of opportunities for outdoor recreation and encouragement of coastal tourism.
- Efforts to improve air and water quality in coastal areas.

Everett B. Carson, executive director of the Natural Resources Council of Maine, called the pro-

See COAST  
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# Coast

posai "a giant step forward." He said it is "absolutely critical that the state begin to put together a comprehensive program to protect the long-term health of the coast."

Jeffrey Thaler, advocacy director of Maine Audubon Society, agrees.

He sees the proposals as allowing development while protecting the qualities of the coast that attracted the developers in the first place.

"It's not jobs vs. the environment. Jobs are created by a healthy environment and the loss of the environment means loss of jobs. Maine is killing the goose that lays the golden eggs."

Some ways the bill is a coastal version of the state's two-year-old Rivers Law in that it attempts to strike a balance between economic development and preservation.

The bill creates what it calls "heritage coastal areas," assemblages of rare rock formations, plants, animals, historic sites and scenic vistas. It encourages local planning boards and state agencies to protect such areas in their decisions.

In addition to the bond issue that would provide money to purchase public access to the shore, the measure would also amend the municipal subdivision law to assure that developments do not impair "any rights of public access to the shoreline."

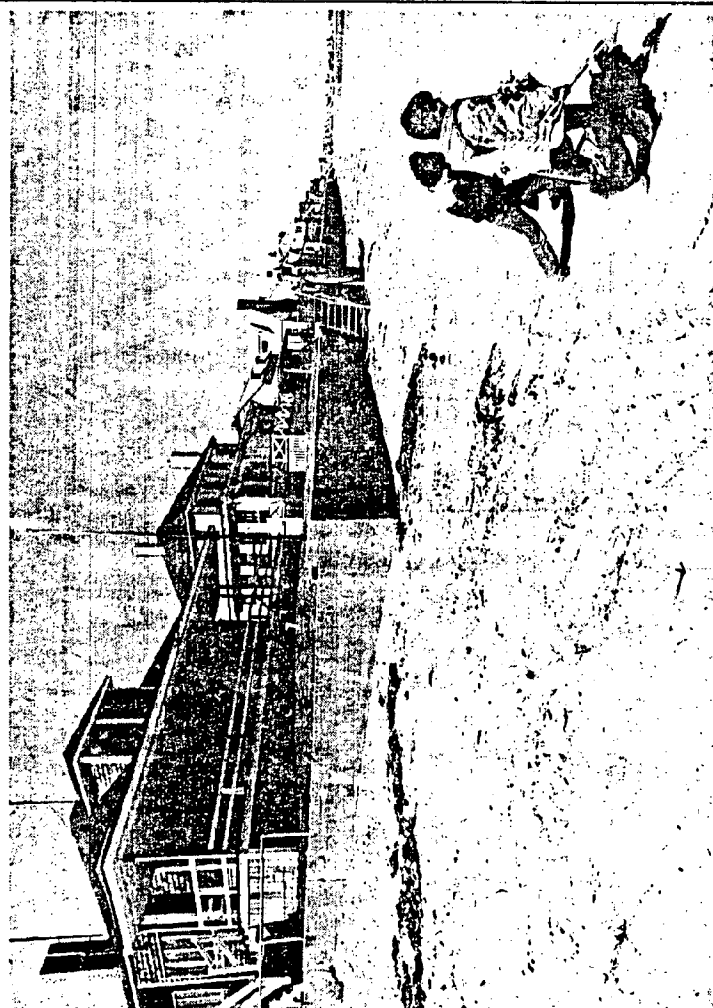
And the measure would allow local planning boards to require developers to help provide public access to the water when subdivisions are created that border on tidal waters.

Planning boards would have a choice of requiring that some of the land be preserved for public use or that fees be paid to create a fund to purchase other land.

Municipalities would "also be encouraged to give preference to fishing, boating, recreation, and other water-related industries by zoning shorefront lands for use exclusively by business and use development's dependent on a shorefront location."

The bill also recognizes the growing consensus among marine scientists that sea level is likely to rise rapidly in coming decades. It requires all new coastal

Continued from first page this section



Staff photo by John Ewing

**The proposed bill requires that all new coastal buildings be built above the level of likely floods and sets up a fund to have the state help pay for the replacement of public facilities.**

buildings be built above the level of likely floods and sets up a fund to have the state help pay for the replacement of public facilities that may be damaged.

Finally, the bill would designate areas of the coast that should be conserved in their natural state because they are fragile or particularly valuable in buffering storm waves.

In such areas, the bill would prohibit the use of state money to

Phippsburg, Dover Point in Hiram, Wells, Little Landing and Waldo Point in Cumberland, Crescent Beach in Cape Elizabeth, Scarborough Beach in Scarborough, Etherington Pond in Biddeford, Crescent Surf Beach in Kennebunk, Ogunquit Beach in Ogunquit, Phillips Cove in York and Sea Point in Kittery.

A major public information program is expected to begin this month to explain the new provisions.

gram, Kesley said. He said State Planning Director Richard Barringer expects to participate in 30 public meetings before the end of next month.

An attempt will be made to reach a cross section of coastal residents and officials through appearances at service clubs, chambers of commerce, marine trade groups and planning commissions.

# Sizing up Gov. Brennan's new coastal initiative

"Turning to the environment," as this newspaper's report put it the next morning, Gov. Joseph E. Brennan proposed a coastal initiative in his State of the State speech to the Legislature Tuesday night.

I'm not sure the governor's motives are entirely environmental, but I do think an effort to deal with coastal issues is a good idea. Maine's handsome coast is under a lot of pressure these days. The more prosperity and people we have, the stronger the pressure is going to get. There's only so much coast out there, and the way we treat it now could haunt us for a long time.

The governor's legislation does three things. It states a set of policy goals for the state, such as the promotion of ports and harbors, the wise management of marine resources, better public access to the shore and the protection of certain natural areas. There are nine policy goals on the list.

Second, the legislation would amend state laws and programs to improve access, do something about folks who insist on building houses in flood-prone areas, let towns zone their waterfronts for water-dependent uses, and identify important natural and cultural areas.

Finally, the package includes three bond issues that would provide money so the state could buy coastal access points, help towns rehabilitate piers and waterfronts, and fix up the state's marine lab in Boothbay Harbor. The lab is the facility where state scientists determine whether to close coastal areas because of red tide, among other things.

That's the proposal. It focuses on public access, an issue that should win it considerable public support. Except for a relatively small number of shore-front property owners who'd like to be left alone, who could be against letting people walk along the beach? And even these property owners might prefer state-owned access points to having the public tramping through their yards.

The bond-issue portion of the legislation provides some much-needed coastal pork barrel, if I may put it inelegantly. Helping coastal towns de-

Heritage Trust. He is right: scarcity, real estate promotion, everyone's desire to own a piece of the coast — all these factors have driven up prices, which in turn have driven up real estate valuations and taxes. In many cases, the temptation of a high price for the family farm has been too great to resist. In others, heavy property taxes have made it hard for owners to hang on. Land gets subdivided and sold. Each time it happens, less of the coast is left in an unspoiled state; each time it happens we end up with more people living along the coast. This is the "pressure" everyone refers to.

Someone has got to come up with an alternative to this system, and the governor's legislation was an opportunity. Unless the Legislature amends it, the chance has been missed. (Not entirely: Dave Keeley of the State Planning Office points out that the bill includes language to assist "water-dependent uses" like boat yards, which sometimes can't compete with condomini-



**David Platt**

velop their piers (piers are important where the tide rises and falls 12 feet twice a day, remember) is a commendable idea. Piers are also a good way to provide public access in an organized way, instead of relying on the good will of coastal property owners.

The governor's bills are a good start, but they don't do everything the coast needs. In fact, they don't address one important issue at all: taxes.

"Property taxes, and relying on them to pay for education, is driving the subdivision of coastal land," says Bruce Jacobson of the Maine Coast

ums. The bill allows towns to zone areas for water-dependent uses.)

Another issue the governor's proposal doesn't address directly is the emptying out of Maine's island communities — some of the oldest settlements on the coast which are rapidly becoming ghost towns. (The pier bond issue money might help in some cases.) Despite its references to preservation, it doesn't address the coming catastrophe in aging island forests. It doesn't come to grips with environmental laws that don't always make sense on islands or in coastal areas, and it doesn't do anything about the consequences of letting all those people onto the state's beaches via the new access points.

Brennan's coastal bills have been compared to the rivers legislation proposed and adopted three years ago. In some ways the two initiatives are similar — both are efforts to encourage the use of scarce resources in planned ways; both offer a helping hand to towns that want to manage their piece of waterfront better.

But in other ways the initiatives are very different. One focus of the rivers bill was a licensing scheme for hydroelectric projects; that wasn't necessary in the coastal bill, which isn't peppered with the same "balancing" and "significant economic benefits to the public" language as the rivers bill.

The bill's approach to the public access problem along the coast might be described as more "conservative" than the approach the state took in the rivers bill, or the way it has traditionally provided access to lakes, rivers or great ponds. That's because the coastal legislation and its accompanying bond issue contemplate outright purchase. If we want access to our publicly owned coast, in other words, we buy it instead of telling a landowner to let us cross his property.

On balance, the governor's coastal initiative is a positive one, and it should generate some interesting and useful discussion.

David Platt is the NEWS senior

BANGOR DAILY NEWS

1/24/86



# Bangor Daily News

A. Mark Woodward, Editorial Page Editor  
Wayne Reilly, Assistant Editor

491 Main St., Bangor, Maine 04401  
Tel. (207) 942-4881

## Editorials

### Coastal development

The Energy and Natural Resources Committee is close to endorsing a watered-down version of Gov. Joseph E. Brennan's coastal-protection bill. This more modest approach still has much to recommend it, although some potentially valuable sections have been deleted.

Much of Maine's economic strength rests on the attractions of its 3,000 miles of coastline and the natural resources harvested there. Yet ironically, this allure is now threatened by the very development it has engendered.

Anyone who travels along the coast can see the chopped-up parcels of property threatening the natural grandeur of the shoreline. Visitors increasingly cannot get to beaches and scenic landscapes. Fishermen and other people financially dependent upon shore access are having trouble maintaining their livelihood in some places as the price tag for shore property makes other uses more profitable. In some places developers contribute to the destruction of the shoreline by building where waves pound in a storm.

Such problems are especially evident south of Brunswick the closer one gets to Kittery. "Keep out" signs and waterfront developments that block fishermen and visitors alike have become more common than the wild stretches of coast that were available to everyone just a couple of decades ago. Farther east around such places as Camden, Blue Hill and Mt. Desert, the strain of development also is becoming increasingly common.

Gov. Brennan's bill would provide some modest remedies. It would expand the authority of municipalities to zone portions of their waterfront solely for water-dependent uses. It would also discourage projects in flood-prone areas.

Three coastal bond proposals in the bill would provide:

- \$5 million for acquisition and development of public access areas. Half the money would go to municipalities.
- \$4 million to go with an estimated \$10 million in federal matching funds for fish piers and other commercial waterfront improvements.

- \$565,000 to improve the capability of the Department of Marine Resources Laboratory at Boothbay Harbor.

A section of the bill allowing a community to exact public access rights in coastal subdivisions was deleted. So was one allowing the Department of Environmental Protection to review shoreland zoning permits for major projects to see if they conform with local shoreland zoning regulations. Both of these sections would have been useful to communities faced by development pressures incompatible with town plans.

The bill won't change the rights of current shoreland property owners. Rather it will strengthen the efforts of communities, many of which are already grappling with the problems posed by rapid development. What's also important is for communities to update their shoreland zoning plans, because only local vigilance can do the job of preserving the coastline.

Along with this major effort, the State Planning Office (1) published a booklet on The Maine Coast: A Time of Change; (2) co-sponsored the 1985 Maine Conference of Land Trusts with the Maine Coast Heritage Trust, bringing together operating land trusts, people interested in forming new land trusts, state officials and allied groups on November 23, 1985; (3) coordinated activities for "Maine Coastweek '85," which took place the week of October 5-14, including production of a glossy brochure for publicity; (4) initiated steps for celebration of the third annual Coastweek during October 4-13, 1986; (5) conducted a survey of coastal towns to determine the extent to which they had been able to implement plans prepared with Coastal Planning Grants; and (6) prepared State grant materials, monitored grant benchmarks and award conditions, oversaw the OCS program and state agency and special project contracts, and participated in regional and national meetings and other state coastal management activities.

C. Critical Areas Program Support (starting October 1, 1985)

Between October 1985 and March 1986 the Critical Areas Program had two Critical Areas Advisory Board meetings resulting in 27 areas being added to the Register of Critical Areas, including twelve zoological, five botanical, four geological and six natural communities. The Register now contains 577 areas.

Work during the reporting period centered on compiling 1985 field season data into two planning reports, one preliminary report and a 1985 Addendum of new rare plant locations to the Critical Areas Program's publication Rare Vascular Plants of Maine. These survey reports increase our knowledge of Maine's rare features and will result in many new nominations to the Register.

The Critical Areas Advisory Board submitted to the 112th Legislative Session an amendment to the Critical Areas Act to give the Program authority to create an official endangered plant list for the State. This bill successfully passed (L.D. 1997, P.L. 595) and will be the stimulus for much future work.

The establishment of Heritage Coastal Areas under the State Planning Office's coastal initiative, L.D. 2167, will be under the guidance and direction of the Critical Areas Program, which assisted in drafting the legislation. An extensive effort to compile data and delineate exceptional coastal natural areas is anticipated.

# Maine Coastweek '85 events include beach cleanup

York County Coast Star

9/18/85

Maine's 3,500 miles of diverse coastline will be the focus of Coastweek '85 planned for the week of Oct. 5-14.

Over 30 different coastal-oriented activities will be held around the state during this year's event, which is being sponsored by the Maine Coastal Program, the Sea Grant College Program, and the Natural Resources Council of Maine.

According to spokeswoman Gro Flatebo, the purpose of Coastweek is to "help people, young and old, learn more about Maine's coast and how to manage it wisely." Gov. Joseph Brennan, in an official Coastweek proclamation, cited the rich scenic,

cultural and historical heritage of the Maine coast and urged citizens to actively participate in the week's events.

"Development pressures along the Maine coast are at unprecedented levels and show no sign of leveling off," stated Jerry Bley, one of the coordinators of Coastweek. "From the Portland waterfront to offshore islands we're witnessing a flood of development proposals. By raising public awareness of our limited coastal resources, we hope that people will be better able to make wise decisions about coastal development and preservation."

Organizations from around the state have planned activities for Coastweek, now in its second year in Maine. A

sampling of this year's offerings include a flight over the Maine coast, natural history hikes through Acadia National Park and the Rachel Carson Wildlife Refuge, evening issues forums on current environmental topics, coastal slide programs, and several boat trips. Elementary and middle school teachers throughout Maine will be bringing Coastweek into their classrooms using a special education kit distributed by the sponsors.

A new event for this year's Coastweek will be a statewide beach clean-up scheduled for Oct. 6. The effort, dubbed the "Plague of Plastics," is modeled after a similar program begun in Oregon last year. Coastweek

organizers are seeking school groups, local organizations and individuals to select a section of the Maine coastline to clean up.

According to Flatebo, "much debris - ranging from styrofoam cups to discarded fishing gear - is being dumped into the ocean at an alarming rate, posing a threat to marine life." Data from the clean-up will be analyzed by the University of Maine at Orono's Wildlife Department.

Coastweek sponsors have printed a calendar of the week's activities. To obtain a calendar and to sign up for the beach clean-up, write to Coastweek, Maine State Planning Office, State House Station No. 38, Augusta 04330, or call 289-3261.

The last few months have seen a blizzard of mail pass through the office as 550 questionnaires were sent to landowners of registered Critical Areas. The questionnaires are for a biennial survey to obtain up-to-date information on the status of Critical Areas as well as feedback on the Program's effectiveness. We found that some areas have been sold or had minor changes, but most were unchanged and remain protected by the landowner.

The Critical Areas Program data base, including manual, geographical and computer "files", has been significantly upgraded and extensively used over the past six months. The primary use has been local environmental review and land use planning. We have had at least 35 detailed requests. We have continued to cooperate with the Maine Heritage Program of The Nature Conservancy in expanding their computerized data base of Maine's rare elements.

Over 100 requests for Critical Areas Program educational brochures and planning reports, including several from teachers who intend to incorporate them into their curricula, have been answered. We have also continued to aid in preparing a book on Maine's special natural areas, soon to be published.

D. Support for Local & State Grant Administration:  
Contractual Services

o Coastal Geology

A Request for Proposals from a geologist very familiar with bedrock geological features of the Main coast was advertised in March, with a contract to be issued in May for inventorying significant coastal bedrock geological features. A special evaluation of undeveloped coastline in extreme eastern Maine is to be included in the project for consideration for nomination as a National Landmark. The area from Cutler to West Quoddy Head has exceptional natural values because of its outstanding bedrock geology. The product of this work will be a planning report with site descriptions of significant geological sites and likely recommendations for additional coastal areas to be added to the Register of Critical Areas.

o Fisheries Management, contract with James Wilson

In September the State Planning Office negotiated and signed a contract with Jim Wilson at the University of Maine - Orono to perform three tasks:

1. Analyze the National Marine Fisheries Service blue sheets (fisheries price lists);
2. Prepare a paper for the Orono Trade Conference on U.S. - Canadian Trade; and
3. Coordinate a consortium of 13 researchers to draft a proposal for a major research project on U.S. - Canadian fisheries trade.

These work tasks are completed and we are negotiating additional work tasks.

Task 5. Coastal Resource Analysis & Policy Development

A. Growth Management & Cumulative Impact of Incremental Development (starting October 1, 1985)

Land development in Maine is outstripping local and State capacity to manage growth, protect natural resources and maintain the State's special character. This task is a pilot project to examine the cumulative impacts of development in a region of York County. The study is identifying resources most vulnerable to cumulative impacts and their capacities to sustain development, documenting development trends and land use patterns, and developing the most appropriate options at state and local levels to address the different impacts on these resources.

The first portion of the study documents patterns and trends of development over the past decade through census data and aerial photography. Wildlife habitat, visual resources, groundwater resources, and wetlands are being studied to develop methodologies for ranking their vulnerability and value on both local and regional scales.

An analysis of the effectiveness of the tools and planning processes currently used in the study area will be reviewed to determine whether findings are representative of the coast as a whole. A final component looks at practical legal options for managing resources identified.

# Pilot SPO Program To Deal With Rapid Growth <sup>3/15/86</sup>

SANFORD - The rapid increase of land development statewide, particularly in York and Cumberland counties, has impacted several communities that lack the necessary controls to properly manage growth. As a result, the State Planning Office (SPO) has recently launched a pilot program in York County to study the situation and develop ways for towns to develop policies that will address the effects caused by development.

According to Gro Flatebo, a natural resource planner with the SPO, growth management was rated the top priority by a regional planning committee, and the SPO received a \$110,000 grant from the federal Coastal Program to form a study group supervised by the SPO and comprising of several state agencies including the Maine Department of Environmental Protection (MDEP) and the state Attorney General's office, local officials and the Southern Maine Regional Planning Commission. The study focuses on nine communities in York County, including Sanford, Alfred, and Lyman.

Beginning last August, the study examined development

trends in the nine communities, and also how the towns were handling continued building growth through their zoning ordinances. The data collection process is continuing, said Holly Dominic, a SPO policy development specialist, with the intensity of development in the area being studied from different perspectives, including aerial photography and the location of groundwater aquifers.

The process, which is being assisted by a local advisory committee comprising of residents and town officials within the pilot communities, is aimed at identifying land resources within the nine communities that are judged for both their vulnerability and importance, using criteria that includes wildlife habitat, visual (scenic) resources, groundwater resources, prime and important agricultural soil, wetlands, beaches, and undeveloped shoreland areas.

Flatebo said there are 40 to 50 sites currently being examined on the visual resources criteria, but declined to name specific sites because of concerns previously raised by landowners who fear the areas will be targeted by developers. She said the study is not meant to pinpoint land for development, but to 'raise people's consciousness and interest' in the valuable areas within their towns and how they can be protected through growth management.

All of the sites are being graded on an A, B, and C scale, with A being the most valuable. Dominic said sites in Sanford and Alfred are located in the outskirts, featuring old agrarian landscape, open space, and diverse characteristics such as fields, ridges, and woods. In Lyman, rural areas are cited in the study, including some that feature agricultural land and ponds.

Although the identification process is important, Dominic pointed out, 'it has to go beyond acknowledgement.' The study will examine the various methods of growth management used by the nine towns, and determine their effectiveness, a process often difficult for local planning boards because of the continual backlog of development proposals being considered. Based on a town's current zoning ordinance, the study will project what growth densities, land use patterns, and resource impacts could result. A regional overview aimed at the five coastal communities in the pilot

program using trends taken from three periods - 1950, 1975, and 1984 - will also be developed.

Once all necessary data is gathered, the study group will analyze each natural resource cited in the study and determine their physical limitations in relation to development, and identify areas that growth should not surpass, such as residential development in known groundwater aquifers. The study will also provide recommendations on practical methods communities can use to protect themselves from unrestricted development.

Flatebo noted many communities in Maine lack specific controls in certain areas or resources within town. Because local planning boards must approve projects based on the zoning ordinance regardless of any weaknesses, 'People become frustrated and feel growth is out of control,' she said. By developing a comprehensive zoning ordinance that is 'strong enough to withstand an army of lawyers,' Flatebo said, communities can properly manage continued growth.

One particular aspect of local planning and zoning controls is scenic value, Flatebo said. 'By the time people wake up to the visual characteristics of an area it's already too late in many cases,' she said. Flatebo also noted that although state laws primarily focus on air and water quality protection, developing safeguards for land resources is an area that needs improvement.

At the same time, Flatebo pointed out, 'We can't stop growth.' Dominic stressed the study is not against development, but is designed to show the importance for communities to ensure it does not negatively impact on local resources. In fact, Flatebo added, development styles matching the natural characteristics of the area can actually enhance the location, thereby increasing property values.

The study is expected to be completed by the end of the summer and will be examined by officials at both the state and local levels. If the program is successful in encouraging towns to improve growth management methods, it can be used as a guideline for other areas in the state, Dominic said, adding, 'If nothing else, it will result in some valuable data for towns and the DEP.'

Two advisory committees are helping formulate recommendations on this project, one at the state and one at the local level. The local advisory committee has met four times. Both groups have been briefed on the status of the project, with presentations by our sub-contractors. The meetings have been helpful in focusing follow-up work.

An Interim Significant Improvement Benchmark for this task called for "a draft analysis of land use trends and appropriate growth management options at the State and local level" by April 1, 1986. Completion of the draft is expected in early May. The Final Significant Improvement Benchmark for this task was changed to November 1, 1986.

Sub-contracted components of this project are as follows:

(1) IF&W, Key Wildlife Habitats

With considerable help from the Department of Inland Fisheries and Wildlife, important wildlife habitats in the nine-town pilot area were identified. This project organized information already collected, augmented by field-checks when possible. A ranking system was developed and the information mapped on a town by town basis.

This project is a first step in developing information for towns to use in their permitting process. IF&W wants to orient their information to the local level because over 85% of development proposals are decided on the local level. They have submitted a proposal to the Coastal Program for special project funding to expand this methodology to the midcoast region.

A draft report and maps have been submitted to SPO. We are currently working with their contractor to answer some land use questions on what types of activities have the greatest impact.

(2) SMRPC, Inventory of Growth Management Techniques

Southern Maine Regional Planning Commission (SMRPC) has mapped State and local permit activity, and assembled demographic data on how and where the region is growing. Growth trends have been projected to 1990 and local capacity to manage growth documented. A presentation of findings is scheduled for early May.

### (3) Land Use Mapping

Sewall Company has completed all the land use mapping for this project and currently is correcting the computer-mapped versions of the land use maps. The aerial photos flown in 1975 and 1984 are being interpreted, the most recent photos being in color infra-red. The color infra-red photos are considerably more reliable in identifying vegetation types. Consequently more wetlands appear on the 1984 maps. This could have important consequences for the State's regulated wetlands which were identified using black and white photos.

### (4) Wetlands Assessment, Paul Adamus (ECO-Analyst, Inc.)

Of the 800 wetlands in the region, 321 were field-checked to collect information on 400 different variables. An additional 81 wetlands were evaluated with existing information. Of these 321, 120 were identified as being of high importance for the region in terms of unique value, providing important downstream services (i.e. flood control), and wildlife habitat.

The fieldwork, analysis and draft report with recommendations have been finished. Information on each wetland is to be computer-mapped.

### (5) Legal and Institutional Constraints, Marine Law Institute

The Marine Law Institute is finalizing its first draft report on legal and institutional considerations in regulating cumulative impacts. Included in the report is a review of the ability of existing Maine statutes to manage cumulative impacts. Case studies of Board of Environmental Protection permit reviews indicate that both legal and technical uncertainties have hindered consideration of cumulative impacts. A survey of efforts in other jurisdictions -- particularly, California, Florida, New York, New Jersey, and North Carolina -- revealed that while regulation of cumulative impacts is perplexing to most regulatory agencies, some successful attempts may prove useful to Maine. Also, analysis of NEPA cumulative impact regulations and relevant case law has provided insight into an effective definition of cumulative impacts.



#### (6) Digitization of Resource Maps

Mapping of land use trends for both the nine town region and five other sample towns along the coast has been a slow process. The system being used is in a developmental phase with several users aside from SPO buying services. The most difficult portion of the contract is about half finished to date. The 1984 color infra-red photos have been entered and are being edited. Half the five towns are finished for the regional overview. The comparison year, 1975, has not been started for the nine-town region of southern Maine. This portion of the project has held up several other contractors (MAS and SMRPC).

Once land use has been completed the natural resource data which is considerably easier to enter and edit, should not be far behind.

#### (7) Evaluation of Land Use Trends, Maine Audubon

Maine Audubon Society (MAS) is evaluating land use trends along the coast to see if the problems, opportunities, and patterns in coastal Maine are region-specific or similar throughout. They have completed the background work needed to evaluate the set of land use trend maps currently being digitized.

#### (8) Visual Inventory

A methodology and scenic inventory of southern Maine was developed in-house for this study. Over 50 areas of outstanding and noteworthy visual resources were identified and mapped. The maps are to be presented to local conservation commissions and planning boards to get their input and then will be computerized.

#### B. Marine Research Plan, ARGO Maine (DMR, Bigelow Lab, UMO)

During the period the Association for Research on the Gulf of Maine (ARGO-Maine) was formed. Members include representatives from the Department of Marine Resources, Bigelow Laboratory, University of Maine at Orono, Maine Geological Survey, and the State Planning Office. ARGO-Maine sponsored a major conference to bring together scientific researchers. (see Appendix B for a summary of the workshops.) Based on this, ARGO completed a research prospectus that identified the most pressing research needs in the Gulf.

C. Developing a State Natural Resource Information System

The Data Management Committee of the Land and Water Resources Council met in September to review the draft RFP for development of a statewide natural resources data management system. The Committee consensus was that the \$7500 budgeted was insufficient to accomplish the task; best estimates were that it would take five to ten times that amount for the desired systems analysis.

The representative from Central Computer Services offered to perform a preliminary study at no cost, within a month, with estimates for performing the desired tasks in discreet stages. Subsequently the deadline was extended at CCS's request, but the product was not delivered.

In conjunction with the Interagency Coordination Subcommittee of the Council's Ground Water Standing Committee, the Data Management Committee decided to scale down the project (1) to limit the analysis to groundwater, and (2) to undertake only "A report that analyzes State data management systems, their capabilities and agency needs."

It was felt that this way the project could be accomplished within the funding constraints.

Groundwater was selected as several agencies are now in the process of considering new data management systems for this resource. Also, many coastal communities are currently analyzing local groundwater resources and drafting aquifer protection plans and requesting State assistance for these efforts. Coordination in this area is critical, and the effort will serve as a good model for management of other natural resources data.

An RFP has been developed for Phase II: "A report that analyzes the options available and recommends a data management system to pursue," and funds will be sought through the Coastal Program and other sources, such as Clean Water Act programs, to accomplish this more expensive part of the groundwater data management pilot project.

The RFP for Phase I is now in State contract review and will be advertised in April, 1986. We anticipate hiring a consultant in early May and completing the project by mid-July. The RFP includes as a second task an analysis of the Critical Areas Program which is also reaching a critical point in its need to computerize its data base. It is anticipated that this analysis can be included within funding constraints.

D. Waterfront & Pier Study (MDOT)

The aim of the Maine Department of Transportation's Waterfront & Pier Study is to inventory general characteristics and specific facilities of each Maine port to analyze the demand for improvements, to establish guidelines for eligibility for State assistance, and to identify potential local projects. The inventory of existing conditions is approximately 85 percent complete. Only Kittery, York, Biddeford-Saco, Cape Elizabeth, Eliot, Kennebunk and Scarborough have not been inventoried. All navigation sections, including the above ports, and all maps except for the above have been completed. Volume I of the Report is nearly complete.

Preliminary need findings were presented to the legislature in support of the coastal bond proposal subsequently authorized for a November referendum. Inventory findings also supplement Army Corps of Engineers information on specific dredging projects (both need-work and maintenance).

MDOT intends to complete the inventory early this summer, to contact municipalities regarding projects, and to hire an engineering consultant to assist in evaluation of projects. Final project decisions will be made after November.

E. Management of Marine Wildlife (IF&W)

The Department of Inland Fisheries and Wildlife is conducting aerial surveys of seabird and seal habitats. Building on work previously done for Casco Bay and the midcoast region, Penobscot Bay is being flown several times each season to identify areas of high wildlife use. Although seabird nesting areas are relatively well known, the habitats seabirds use while molting and overwintering are not known. Likewise, areas heavily used by seals are not known. This information will be helpful in both state and local siting and development decisions.

Mapping and summaries for the post-nesting and winter seasons have been completed. There are nine more overflights to be made to complete the seasonal cycle. The study has been expanded to cover Blue Hill Bay.

## PART II - OTHER FEDERALLY-REQUIRED REPORTS

### 1. Monitoring & Enforcement Activities

(See section 1.A of Part I, Appendix A.)

### 2. Wetland/Estuary Report

As of September 19, 1985, an estimated 30,000 acres of Maine freshwater wetlands came under protective custody of the Department of Environmental Protection. That was the effective date of the Freshwater Wetlands Act enacted by the 112th Legislature to give the DEP regulatory authority over freshwater wetlands similar to that which it has exercised over saltwater wetlands for more than a decade under the Alteration of Coastal Wetlands Law (38 MRSA 471-478, a Coastal Program Core Law.

Specifically, permits are now required to dredge, drain, or fill freshwater as well as saltwater wetlands, or to erect a permanent structure in, on or over them. Unlike the Coastal Wetlands Law, the new law defines wetlands as "unforested" and of "ten or more acres" in size, and exempts modifications resulting from agricultural, forestry and peat mining activities, hydropower projects and interstate pipelines.

Freshwater wetlands over 10 acres in size were mapped by the DEP in response to a 1982 legislative mandate. Their total acreage was estimated but has not been systematically measured. The only available overall statistics on the extent of saltwater and freshwater wetlands were compiled by the Department of Inland Fisheries and Wildlife in 1974; the only evidence of wetland loss, other than anecdotal evidence, is a compilation of filling and dredging permits. (See Exhibit B-3, "Coastal Wetlands."

An outstanding success story in wetland protection is the recent conveyance by the City of Rockland of 700 acres of land in the Rockland Bog to the Oyster River Bog Association. A protective conservation easement prohibits land development as well as the operation of motor vehicles, guaranteeing that the land will remain forever wild, regardless of subsequent ownership or shifts in the political wind.

Another outstanding success story, better known, is the creation of the Wells National Estuarine Research Reserve (formerly called "Estuarine Sanctuary"). A Sanctuary Manager was hired by the Town of Wells in January. In excess of \$100,000 in road and parking lot construction services has been offered. Conclusion of land acquisition

by the State and the Town of Wells in late April culminated more than four years of work toward the project by the State Planning Office.

Instances of continuing pressure on the State Sand Dune Law are described in clippings reproduced on the following pages concerning the Hall and Rubin cases and permits requested for seawall construction. The 112th Legislature entered the seawall issue with enactment of L.D. 1729, permitting seawall construction in an area in Scarborough.

See also Task 5.A (4) in Part I of Appendix A.

### 3. Fisheries Management Activities

The Department of Inland Fisheries and Wildlife is preparing Strategic Plans for Fisheries Management for ten Maine rivers, pursuant to an agreement with the State Planning Office under the Maine Rivers Act. A completed plan is available for the East Machias River (prepared in conjunction with the Department of Marine Resources and Atlantic Sea Run Salmon Commission.)

The success story of the renewal of the Kennebec River and restoration of clam flats near Phippsburg, at the mouth of the river, is described in the clipping reproduced below.

Needed improvements to the DMR's Marine Laboratory at McKown Point, Boothbay Harbor, are a step closer as a result of approval by the 112th Legislature of L.D. 2250. The Act refers a \$10 million bond issue, with \$750,000 targeted for the Lab, for voter approval in November. Improvements will enhance the State's research capabilities and management of the fishery.

(See also "Coastal Issues and Accomplishments".)

### 4. Hazard Management Activities

L.D. 2167, An Act to Enhance the Sound Use and Management of Maine's Coastal Resources by the 112th Legislature addresses hazard management issues with provisions: (a) requiring new construction to be sited at least one foot above the 100-year flood elevation, and designating floodway areas as resource protection zones in local zoning ordinances; (b) prohibiting State expenditures for development activities within a designated Maine Coastal Barriers System; and (c) outlining cost sharing for disaster assistance to local governments. (See write-up under "Coastal Issues and Accomplishments".)

## Court sand dune action could affect second case

PHIPPSBURG — Recent action by the Maine Supreme Judicial Court regarding the state sand dune law could affect a second case pending against the state Board of Environmental Protection.

Earlier this week, the Supreme Court unanimously upheld BEP's denial of a permit for Donald and Virginia Hall, of New Hampshire, who built a cottage on a frontal sand dune on their Hunnewell Beach property. DEP Coastal Sand Dune Rules prohibit building on a frontal dune.

In addition, the court returned the case to Superior Court, with instructions to look at whether the sand dune law unconstitutionally takes property without compensating the owner.

As long as there is enough evidence to support a BEP decision denying construction on sand dunes, the Supreme Court would not reverse it.

However, if a structure is built on a dune and BEP denies an after-the-fact permit, the state may be responsible for compensating the owners for its fair market value.

Assistant Attorney General Gregory W. Sample expects a case similar to the Halls to follow the same course. Harold and Dorothy Rubin, of Flo-

rida, filed suit against BEP when they were denied an after-the-fact permit for an addition to their beach house.

The Rubin case is expected to be heard in Sagadahoc County Superior Court in October. Sample expected there will be two hearings. The first one will determine if the BEP was correct in denying the Rubins permission for the addition at their Hunnewell Beach property. The judge would make a decision based on facts in documents filed by the BEP and the Rubins.

The second hearing would be similar to the Hall hearing, in that Sample would attempt to show that the Rubins' property would not be rendered useless upon the removal of the addition.

In their respective cases, the Halls and the Rubins will have to prove that their property would be rendered useless if they had to remove the structures constructed on the sand dunes.

Sample compared it to the state "taking" land from residents in order to build a highway. Landowners must be compensated by the state in that case, because they are deprived of their property.

When the Hall case was in Superior

Court, Sample succeeded in having the justice dismiss the count charging that the sand dune law unconstitutionally takes property without just compensation. The Superior Court and the Supreme Court upheld the BEP's denial of the Hall permit.

But the Supreme Court sent the Hall case back to Superior Court, saying that it should not have dismissed that count. It wants testimony to be taken regarding the value of the Hall's property.

Sample expects to have to do the same in the Rubin case.

The Halls built the structure on their property in 1982 after storms severely damaged their cottage in 1977.

Rubin, a retired superior court justice, built the addition about four years ago.

BEP denied both after-the-fact permits after determining the structures would interfere with the supply or movement of sand, increase the erosion hazard and pose a flood hazard.

BRUNSWICK TIMES-RECORD  
9/6/95

# Seawall plans erode

DEP staff opposes project

By BOB CUMMINGS  
Staff Writer

SCARBOROUGH — A seawall won't be built at Pine Point to protect homes from the eroding waters of the Scarborough River if the board of the Department of Environmental Protection follows the recommendations of its professional staff.

A new department study says a wall might protect against minor storms, but would make the erosion more severe during major storms.

Homeowners in the area have sought permission for a wall since the fall of 1983, when great chunks of lawn fronting the homes were chewed away by ocean waters almost nightly.

When a wall was turned down by the environmental agency at that time, owners sought help from the Legislature.

Members of the Legislature's Energy and Natural Resources Committee were sympathetic. A majority threatened to amend the law regulating sand dunes

to require that a wall be allowed — unless the staff department regulations were amended.

After months of discussion and hearings, the rules were changed — but not enough to permit the Scarborough construction in the opinion of Donald Witherill, the staff person who evaluated the application.

"The staff has reached the conclusion based on the sand dune law and the rules, that a denial of the application is appropriate," he writes in a memo to board members.

The board will consider the recommendations at a meeting scheduled for 10 a.m. Friday in August.

Witherill said a wall would cause the beach to erode even more rapidly, interfering with recreational uses and the natural movement of sand.

Complicating the decision, Witherill said, is the unwillingness of all persons living in the area to join in the wall construction. He said erosion is most severe at the ends of a sea wall so partial construction would result in damage to the neighbors who do not want a wall.

He said a possible compromise would require the entire neighborhood to sign a cooperative agreement that would require the wall builders to

professional geologists who have studied the area.

Barry Timson, a marine geology specialist hired by the property owners, blames the erosion on the construction of a jetty at the mouth of the river by the Army Engineers.

Joseph Kelley, a geologist employed by the state Bureau of Geology to advise on sand dune matters, however, says the primary cause of erosion is action of waves.

The dispute is critical to the decision because department regulations prohibit seawall construction when wave action is the cause.

The sand dune regulations are designed to protect the state's beaches. Sea level is rising worldwide. In the absence of walls and other ob-

10/30/85

replace the sand on the adjacent properties as it erodes. But Witherill said such a plan would be both expensive and difficult to enforce.

"Because of these concerns we have not recommended approval of the project," Witherill tells board members. "However, this solution appears to be the only option by which the wall may be approved under the law."

None of the owners involved could be reached for comment this morning. Several of the properties have been sold since the dispute began two years ago and a majority of the affected land is currently owned by persons who are not residents of the town.

The sales followed a general slowing down of the rate of erosion. Only small amounts of sand have washed away in recent storms.

The area is known as Pilisbury Shores. It is built largely on land that was created when the U.S. Army Corps of Engineers dredged the channel of the river many years ago and pumped the sand onto an adjacent salt marsh.

The area has been temporarily protected from storm waves by sand bags.

Complicating the board's decision is a dispute among pro-

structions, beaches migrate inland in response to higher water levels.

Evidence of this are the peat bogs that underlie many Maine beaches. Scientists theorize the sand migrated inland as the waters rose, covering adjacent salt marshes and bogs.

Kelley argues when walls are built, waves bouncing off the walls erode the sand in front even faster, and cause severe washing away of the sand at the end of the walls.

He estimates 50 feet of adjacent land might disappear if the wall is constructed.

Timson estimates the maximum loss of land at 5 feet. But he says even if Kelley is right, a wall wouldn't do unreasonable harm since the adjacent homes would still be 70 feet away.

## Board Of Environmental Protection Prohibits Intertidal Filling And Seawall Construction

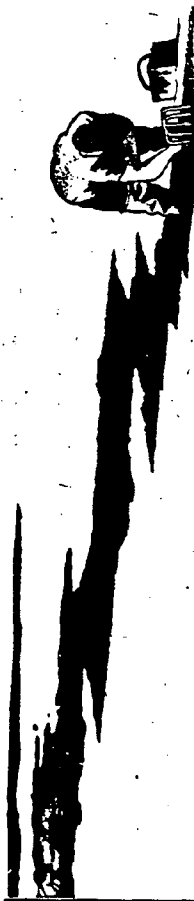
Two applications for construction that would have dramatically altered sand dune and wetland ecosystems were denied by the DEP in January. One application was for construction of a 370-foot rock seawall in front of four houses on Pine Point in Scarborough. Since the late 1970s, the DEP has recognized that seawalls accelerate the erosion of the beach fronting the wall, accelerate erosion of adjacent unprotected property, and prevent the replacement of lost beach sediment with sand from the dune system.

The board also denied an application to fill an intertidal channel located in the sand dune system along Jones Creek on Pine Point. The applicant proposed to completely fill the half-acre channel in order to construct five attached condominiums on posts. The channel holds approximately 18,000 cubic feet of water during spring tides and flooding conditions. The entire lot is flooded during a 100-year storm.

Habitat, Feb. '86

SPRING '86

L.D. 1729, An Act to Clarify the Sand Dunes Law. This bill was enacted as amended with the amendment strictly limiting the conditions under which the construction of a sea wall can be permitted and limiting the impact of the bill to an area located in Scarborough. The amendment also deleted the portion of the original bill which allowed the rebuilding or replacement of permanent dwellings in the sand dunes system.



## RIVER RESURRECTION Clam flats restored

The Kennebec River is one step closer to full recovery. The clam flats near Phippsburg, at the mouth of the river, may soon be opened to shellfish diggers for the first time in the 38-year history of clam flat regulation.

The possible opening reflects improvements in sewage disposal along the Kennebec. Thirty years ago towns from Augusta downriver to Bath sent their waste water, untreated, into the river. The bacteria and viruses from this sewage make all filter feeding shellfish, such as mussels and clams, unfit for human consumption.

Hal Winters of the Department of Marine Resources said dry weather testing results indicate that the flats can be opened. When the wet weather results come in, perhaps with the fall rains, the DMR will make an official announcement.

Last Monday Phippsburg adopted a shellfish ordinance to control the number of harvesters who will enter the flats if the 130-acre Atkins Bay tract is opened. Selectman Fredrick M. Haggitt is not surprised by the possible opening because "the river has become noticeably cleaner." Twenty-five years ago, fishermen could catch no fish in the Kennebec; now they can do quite well, he said.

The Phippsburg closure is one of the biggest in the state, said the DMR's Bob Lewis. There are

1350 intertidal acres, only 802 of which are now open to harvest by the public.

But some Phippsburg flats that are closed to the public do not lie fallow. Depuration, a purification process, is used by some state-certified workers to recover tainted clams. There are four plants in Maine that use the ultraviolet light process to kill bacteria and virus contained in the contaminated shellfish. In the process, the shellfish transfer the contaminant from their bodies to the water as part of the normal filtering process. The ultraviolet light, radiating into another part of the tank, kills the bacteria and virus suspended in the water. At Phippsburg, 620 acres are closed to the public but open to depuration workers.

According to the DMR's Bob Lewis, 21,000 bushels of clams were saved, statewide, for human use by the depuration process. This represents almost \$750,000.

Lewis said there are a total of 49,000 intertidal acres on the coast and about 8,000 are closed to the public, though some of these are seasonal closings. In terms of acreage, more of the closures are in the eastern part of the state due to the high tides and uneven shore. Maine's southern coast is relatively smooth.

Winters explained that sewage contamination of clam flats used to be much worse than it is now. In a 1978 survey, state officials found 3800 to 4000 open pipes leading into the ocean and Winters believes at least that many more went unnoticed.

He said there have been "dramatic" improvements in recent years, though the problem of untreated effluent remains. If anyone discovers a pipe dumping untreated sewage into the sea they should notify the Department of Environmental Protection's Licensing and Enforcement Division at 289-3366.

Winters said cottages are the number one source of contamination. For example, a septic system designed only for summer use becomes overtaxed and ineffective when the cottage owner decides to stay year-round. Another problem is that on Maine's rocky coast there is little soil for percolation of the effluent, and many septic tanks rest on a skin of earth that covers bedrock. Finally, cottage contamination is hardest to discover because there is no open pipe.

Boats contribute to the problem, too, though on a much smaller scale. There are still many boats on the water that were designed before laws restricting the flushing of sewage into coastal waters, so the problem intensifies in the summer when boats fill a harbor and many people are living on their boats, said Winters.

About 2,000 acres of Maine's intertidal zone are open only in the winter. This is because the cold water is less hospitable to the bacteria and viruses. They are less likely to reproduce, partly because of the temperature and partly because of higher oxygen levels due to the cold water.

Since 1979, the DMR has on an annual basis attempted to prioritize closed clam flats, looking at the value of the flat and who is the major polluter. The DEP takes the results and tries to put an end to the contamination by making either a town or individual homeowners improve their sewage system. Sometimes state or federal funds are available.

Winters said it takes a few years to notice a change after a source is controlled. He expects a burst of re-opened flats next year. Five thousand acres have been recovered in the last ten years, though at the same time new closings have been ordered.



Floodplain management generally is in a period of implementation and testing of existing laws and regulations. SPO technical assistance regarding floodplain management ordinances and development proposals has focused on coastal communities with greatest development pressures, those in York and Cumberland Counties. However, thirty other coastal communities have requested assistance. In addition, SPO has reviewed in excess of 100 development applications submitted to the DEP under the Alteration of Coastal Wetlands and Sand Dunes laws.

It is evident from the increasing number of structures that are floodproofed and the increasingly sophisticated questions posed by local officials, that the understanding of floodplain management by local and State regulators has increased noticeably in the past few years.

5. Urban Waterfront & Commercial Harbor Projects

- o Local Waterfront Revitalization Projects (See Task 2, Part I of Appendix A.)

- o Sears Island Development

Development of the Sears Island Cargo Port was halted by an August, 1985 ruling by a federal circuit court of appeals, which said that an Environmental Impact Statement must be completed prior to construction. A draft EIS was nearing final form by the end of the reporting period, with expected release in July. (See news clipping reproduced on the following page.)

- o Maine's Fish Pier Program

As reported previously, six of the seven fish pier development projects started in 1978 with State support are now operating -- Portland, Kennebunk, Vinalhaven, Eastport, Saco and Stonington. The piers are providing needed berthing space, servicing vessels with fuel, ice and marine supplies, and offloading marine catches from fishing vessels, including groundfish, herring, crabs, scallops, shrimp, clams, mussels, lobsters and mackerel.

In Rockland, the McLoon Wharf was purchased by the City and engineering plans largely completed for its use as a fish pier. Final details of pier reconstruction depend on results of a Management/Operational Plan for which the City issued a request for proposals. Financial assistance for preparation of the Plan is to be provided by a grant through Maine's Coastal Program. Reconstruction is scheduled to start this summer.

# Sears Island Work Still Goes On

By Gretchen Gaffney

"By next fall we anticipate pier construction to be underway," states Don Grant, Searsport town manager, when questioned Tuesday about the hold-up in construction of the \$28 million cargo pier on Sears Island.

An August ruling by a federal circuit court of appeals said an Environmental Impact Statement must be completed prior to the construction.

On hold are primary site development construction contracts which were partially completed prior to the court ruling. The \$325,000 onshore site preparation by Wardwell Construction of Bucksport will continue, according to Grant, to secure the site against erosion.

Dredging operations in the harbor area offshore were nearly 2/3 complete when stopped July 1, under terms of the dredging permit, to allow marine life, such as lobsters and shellfish, to molt and complete life-cycle processes.

With work scheduled to resume in October, this \$2.6 million dollar project is on hold. Causeway construction between Searsport and Sears Island was interrupted also pending the outcome of a state-filed appeal of a district court ruling.

The original permit for the causeway was revoked in this ruling because the permit issued was for a bridge not a causeway. While awaiting the appeal decision, the state has requested that the Coast Guard grant a permit for the causeway.

## Site

Some site development is complete, though, according to Grant. The nearly 2 1/2 miles of access road, of which the causeway remains an undeveloped portion, is essentially finished except for shoulder work.

The EIS is expected to take a year to complete according to Grant. Although the Federal Highway Administration will be the lead agency overseeing the EIS,

Normandeau Associates of Mass. will do the environmental assays. "They were solicited to do it (EIS) because they did part of the original environmental assessment which was completed in 1984," states Grant. He anticipates, but did not enumerate, problems with the EIS.

Commenting from his office in Augusta Tuesday upon the court of appeals decision, which stems from a suit filed by Nancy Stone on behalf of the Maine group of the Sierra Club, Maine Commissioner of Transportation Dana Connors admits the ruling was a setback.

But, he quickly adds his department has given the Sears Island cargo pier project "its highest priority" and will continue the momentum to see the project to completion.

Connors is optimistic that construction will proceed as planned even with the year's delay and findings of the EIS.

"The court's decision addressed

environmental concerns with secondary development of the approximately 160 acres surrounding the 50-acre primary construction site," states Connors, who adds that the decision also "pointed to the adequacy of the environmental assessment," which was required by the Army Corps of Engineers before any construction began with the primary site development.

## Long Range

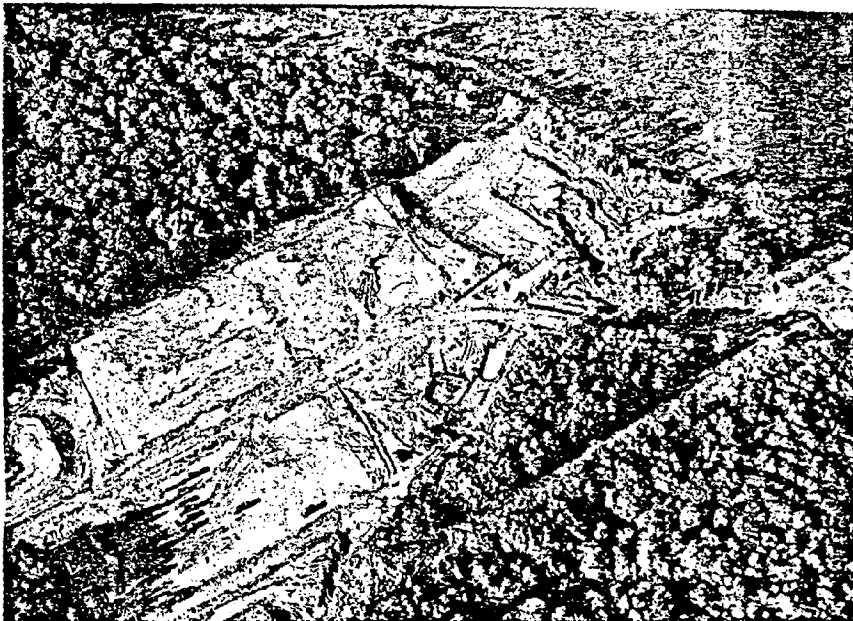
When questioned as to how an unfavorable EIS for future secondary development would affect long-range community development which predicted the creation of 2,750 jobs for the area if the total 160 acres were developed, Connors emphatically states that the "port will stand on its own." He admits, although, that original design of the port placed value in its promotion of further economic growth.

Connors is confident that the EIS "will not uncover any real issues of substance but will offer an additional time frame for follow through with the procedural processes of the laws. On this basis, Connors is asking Attorney General James Tierney to allow "us to go forward with the primary project, to complete the port itself and the port facility."

Connors also adds that in their unfinished state the project could be more environmentally damaging. He gives as an example erosion of surfaces excavated and cleared during site preparation by Wardwell.

Asst. Attorney General Cab Howard stated that such a request, if submitted now, to allow construction completion, while waiting for the EIS, would be premature since the case is technically still in the circuit court of appeals. Once the case returns to the district court, the plaintiff, which is the Sierra Club, can ask the court to enjoin the DOT from further construction until the EIS is complete. Howard would not comment at this time as to negotiating strategies his office would pursue between DOT and the Sierra Club once this request was submitted.

What Grant and Connors anticipate as a problem during the delay is the loss of federal funding which had been secured through Community Block Development and Economic Development programs. The town stands to lose \$173,000 while the state could lose \$2,000,000 by the hold-up. Connors states the town can reapply for the money but there is a risk of less funding available. Compounding this is the probability that the contracts to do work will have to be re-negotiated due to inflationary pressures.



SEARS ISLAND CONSTRUCTION — Although the cargo port is now involved in litigation over an environmental impact statement, some work does continue as shown in this aerial

photo taken last week. The pier will be constructed at the right of the photo. The cleared ground is for future port facilities.

Republican Journal  
9/19/85

# Rockland Fish Pier To Become A Reality

by Stephen Betts  
Staff Writer

Former Mayor Mildred Merrill could not contain her excitement over the Rockland City Council's vote to realize a nearly decade-long dream of having a municipal fish pier.

Merrill applauded, along with fish-pier supporter Arthur Thurston, as the roll call ended with a 4-1 vote Monday night to approve the purchase of the McLoon Wharf properties for \$350,000.

In other action, the council agreed to negotiate with Sawyer Environmental for disposal of the city's trash.

In regards to the pier purchase, Merrill, a former two-term councilor, has been one of the leading backers of a municipal fish pier for Rockland. She pointed out that developing the harbor was one of her main campaign planks when she ran for the council in 1977. Merrill said there have

been times since then when she feared a pier would never be achieved, but she enthusiastically praised the Monday night action of the council.

Following a motion by Councilor Jean Chalmers, another strong supporter of the pier idea, the council ratified an agreement worked out by City Manager Harold Parks for the pier purchase.

The state will pay 80 percent (\$280,000) of the purchase price. The remaining 20 percent (\$70,000) will come out of Rockland's initial \$150,000 contribution to the pier project.

The agreement, approved by the council, is contingent on approval by both the Maine Department of Transportation and the federal Economic Development Administration. The EDA awarded a \$500,000 grant to the city in 1982 which it has since agreed can be used to repair the aging pier.

The McLoon pier is located off Weeks Street.

The council also voted 4-1 to give Parks the go-ahead to proceed with engineering studies as well as to apply for necessary permits to repair the wharf.

Councilor Warren Perry voted against this motion and the purchase proposal.

The order requires that contracts for demolition and repairs be approved by the council and that total cost of all contracts fall within the available monies.

The preliminary engineering studies presented by Wright-Pierce and C.E. Maguire indicate that there would be 150 feet of berthing space that would have a water depth of eight feet or deeper at mean low tide. The remaining 220 feet of berthing space will have less than eight feet.

The plans call for a fender system along the 370 feet of berthing space on the main wharf. The total renovations (including

demolition of the dilapidated buildings on the wharf) would range from \$400,000 to \$610,000.

Parks said he anticipated it would take about four months to gain approval from the various regulatory agencies and that bidding for improvements could be done in January. He said work, such as tearing down buildings, could be done during the winter months.

Parks said renovation costs which were estimated in May 1985 could increase because of inflation by next year, but he added, the amount of work would be cut back to meet the budget.

Courier-Gazette  
8/22/85

## In Eastport, things are looking up

By John Hale  
NEWS Business Writer

**EASTPORT** — The sky seems bigger over Passamaquoddy and Cobscook bays.

In Eastport, things are looking up after decades of decline and dashed hopes. City fathers promote their community with zeal and they can finally point to some solid achievements.

Out on Cobscook Bay, they're growing thousands of Atlantic salmon in pens — and selling every fish they can grow. On the multi-million dollar cargo pier, longshoremen hope for a drop in the dollar so they can start churning out exports.

Standing on the cargo pier that was expanded for \$3.6 million, Bob Keezer, chairman of the Eastport Port Authority, exudes pride.

More than 60,000 tons of cargo — mostly pulp from the Georgia-Pacific mill in Woodland — has left Eastport already this year, bound for foreign ports. That compares with 15,000 tons in 1981, the first year Eastport began soliciting export business.

"We have one of the deepest seaports on the Eastern Seaboard," said Keezer, an insurance salesman. "I would bet we'd have a ship in here once a week if it weren't for the strength of the dollar overseas."

The big ships have been coming in about once a month recently. The new pier can accommodate a 700-foot vessel. A crane that can lift 100 tons stands ready and a 90-foot tugboat is permanently berthed at the pier.

Bob Wallace, manager of Federal Marine Terminals, says this year's exports may reach 70,000 tons but that in a good trade year, exports would top 100,000 tons.

"All this went out of St. John before we started here," said Wallace. "We concentrate on the forest products industry and we're talking with all of them. Georgia-Pacific makes a great base for us."

"We have 40 part-time workers averaging about \$5,000 a year," Wallace said. "We expect to get those people up to a decent annual income."

## Matinicus Fuel Supply Could Hang In Balance

by Stephen Betts  
Staff Writer

An assessor for Matinicus Island has voiced concern to Rockland about plans for its city fish pier. A project she fears could exclude the oil tanker that provides fuel to the offshore community.

The municipal fish pier committee met Tuesday and discussed a letter from Island Assessor Elizabeth Long Burr concerning conversion of the former McLoon Wharf to a city dock.

"Rumor has it that development of the new fish pier in Rockland will mean an end to the ability of the William McLoon to use Rockland as a base," Burr said.

The William McLoon is an oil tanker owned by Ed Polk of Rockland. Harry Hopewell of Vinalhaven and Eric Edwards of Southwest Harbor. The tanker has used the McLoon Wharf for a berthing space but the development of the pier could force them to move.

"Inhabitants of Matinicus Plantation are understandably disturbed by this rumor. The cost of transportation to the island of 2 fuel oil, K-1 (kerosene) and gasoline is of great concern to us," the town official states.

City Assessor Robert Peabody (the fish pier coordinator) said no decision has been made on whether the oil tanker can continue to use the pier after it is converted. During the debate on buying the pier, however, statements were made by local and state officials that the pier could only be used for commercial fishing.

Peabody noted that other wharves are reluctant to allow an oil tanker to dock because of the liability.

He said that the management/operational plan the city hopes to have compiled would help answer questions such as whether the tanker could use the pier. He said if the state agrees to partially fund the study, it could be completed by mid-May.

In other action, the committee approved the preliminary plans for the pier as drawn up by engineers Wright-Pierce and C.E. Maguire. Peabody added there were recommendations for three minor technical changes of the proposal.

Peabody said the final plans could be forwarded to the city within two weeks and explained that the current timetable is for construction bids to be solicited and selected in May with construction beginning late in the month.

Courier-Gazette  
7/27/86

# Commercial Fisheries News

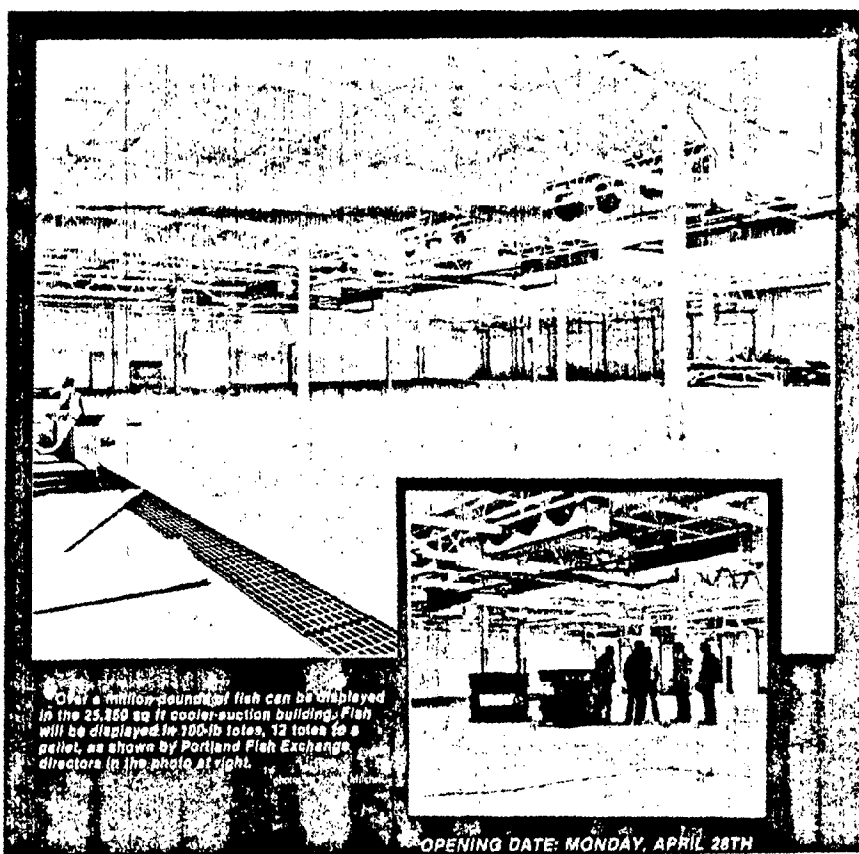
Portland Fish Pier, Portland, ME

Spring 1986

NEW ENGLAND'S FIRST

## DISPLAY AUCTION READY

PORTLAND FISH EXCHANGE FACILITY COMPLETE  
FISHERMEN AND BUYERS LINING UP TO TRADE



Over a million pounds of fish can be displayed in the 25,250 sq ft cooler-auction building. Fish will be displayed in 100-lb totes, 12 totes to a pallet, as shown by Portland Fish Exchange directors in the photo at right.

OPENING DATE: MONDAY, APRIL 28TH

"Over a million pounds of fish can be displayed in the 25,250 square foot cooler-auction building. Fish will be displayed in 100-pound totes, 12 totes to a pallet."

# Vision and work built Portland's waterfront

This is a story of hard work, vision, faith and risk. It's a story about fishermen and their city. And although we're still in the middle of the story, up to this point, it is an inspirational success story.

This is a story of fishermen refusing to stop at simply complaining - of fishermen up and doing something for themselves. It's a story with many stars - the fishermen, city officials, and a few professionals who have committed themselves to being part of the fishing industry, and who have contributed their time, resources, ideas and expertise.

It's a story about timing - of ideas and people. It's a story of local people going up against slick developers - and winning. These are local people who grew up together on the waterfront, who remember their outboard days, when they spent their time dodging cays of crud coming down the river.

It's a story that should give fishermen everywhere hope. The Portland fishing industry is creating a future for itself on the Portland waterfront.

It all started in February, 1977 when four Portland fishermen, Pete Kelly, Tommy Jordan Sr., Larry Scola and Stan Bayley complained to the City of Portland that berthing was getting too expensive, and too hard to find.

As luck would have it, the person in the city they connected with was Clark Neily, then as now, the Director of Economic Development. Neily heard the fishermen's plight. Really heard it, and took it to heart.

seeing. Once again, it started with a complaint. And once again, leadership, this time from Ed Bradley, transformed it into opportunity.

In 1980, fishermen in the Maine Fishermen's Cooperative Association (MFCA), rebelled against paying \$25 for docking at the Maine State Pier, a moribund cargo pier, since they weren't getting any services in exchange. Fishermen were also upset with fuel prices in Portland. The result: 25 MFCA members formed Vessel Services, a business venture which provided fuel and ice on the pier. They hired David Leeman to manage the operation.

As plans for the pier took shape, Vessel Services had a choice - either go out of business or take the gutsy route and get the fuel and ice contract on the pier. That appeared hopeless. Portland Sebago Oil and Ice Co., which was being displaced by eminent domain for the pier, was being given the contract as part of their settlement.

But "can do" prevailed. The fishermen, led by Bradley, objected to the arrangement and bid for the spot themselves - and won. About half the original fishermen investors, joined by Bradley and Leeman, invested heavily in the \$1.3 million project to take Vessel Services this next step. Sam Davidson, an accountant who was increasingly involved with the fishing industry, was critical in putting the package together.

Since then, Vessel Services has been a proving ground for those involved. They have learned to work together; they have learned to weather the inevitable ups and downs of a start-up business; and they have learned to merge the shoredside perspectives of attorney Bradley, manager Leeman, and accountant Davidson with working fishermen perspectives, like those of Marshall and Carole Alexander, Gerry and Linda Balzano, Charlie and Gail Johnson, Alden and Marge Leeman, and Bobby and

The result is that the City of Portland now has a 19.5-acre, \$22 million fish pier, is about to start the first display fish auction in the country, and is seeing a hub of private fishing-related investment growing in that part of the waterfront.

Neily was able to get the attention of the Portland City Council, where the late John W. Sturgis, in particular, took up the cause. The council established a Fish Pier Task Force which took the project from there.

For years, the Fish Pier Task Force met regularly, often once a week, at 7:30 am. And the meetings were well attended - by fishing industry members, by state officials from a number of departments, and by city officials and council members such as Lew Smith.

The scene of the story must now shift to Orono, where a young economics professor had taken an interest in the fishing industry. In 1975 Jim Wilson received a grant from the University of Maine Sea Grant Program to study the expected impact of the 200-mile limit on the state's industry. That grant produced at least two notable ideas: first, the Maine Fishermen's Forum, which is now in its 11th year, and second, the concept of a display auction in Portland, which is slated to open this February or March.

A display auction, Wilson suggested, could open up the market by attracting other dealers and processors, making it easy for them to get access to fish in the quantities and species that they want; it could make a major pier in Portland benefit

outlying ports in other parts of Maine as well; it could help fishermen get a price for quality, get paid reliably, and get a good price. Wilson developed the display auction idea further in a 1978 State Planning Office study.

The display auction concept joined the fish pier project when Wilson worked on the pier feasibility study for C. E. Maguire, Co. Building a pier, the study concluded, could be justified if it was more than just a pier - if it housed a display auction and a fishing industrial park as well.

Wilson's involvement in the auction didn't stop there, though. He stayed with the project through years of planning and arguing as the Fish Pier Operations Committee hashed out all the basic arguments between the interests of fishermen and the interests of dealers and processors, which come out when you try to decide whether or not there should be a display auction in Portland, and if so, how.

First, though, the city needed money for the pier. Getting funding for the pier had its own, independent drama. Sen. Edmund Muskie is responsible for the initial \$5 million Economic Development Administration (EDA) commitment. As the story goes, Muskie took the representative from the Department of Commerce out on the Portland city fireboat in January and, at 11 degrees below zero, wouldn't let him in off the deck until he made the commitment.

Since then, it has been a full time job lifting up and actually getting the funding in hand. It took years to

actually receive the \$5 million. It took more years to get an additional \$1.3 million for the cooler/auction building. When Reagan took office in 1981 all of EDA was in jeopardy, and with it the project. That Portland received the \$6.3 million is testament to concerted, informed effort by every single individual who has served as part of the Maine Congressional delegation during the period.

Along the way, there has also been state and local support. Portland received \$5.3 million of a \$9 million bond issue for fish piers - a turning point for the project. The city has repeatedly come up with funding, guided by City Manager Tim Honey who firmly supported the project. It's been a saga of dogged determination.

And that determination was there. As luck would have it, in 1978 the city hired Don Olsen as a planning assistant. Olsen said then, as he is still saying now on the eve of his departure in mid-February, that all he wanted to do is bring an operational fish pier to Portland. As Waterfront Administrator Olsen pursued one funding source after another, always focused on the fish pier, never straying to greener bureaucratic pastures.

But as the city struggled for money, the project appeared to stagnate. Some people in the industry lost faith in the project. What is important for this story, however, is that people in the industry did not lose faith in the Portland waterfront.

The scene shifts again, to one key event which became the crucible for the larger development we are now

Brenda Tetrault.

Those people were the lead risk takers - the first private investors on the new fish pier. It took guts. They had faith, at one of the worst of times for the local industry, that the

with the lessons learned in a number of zoning battles to preserve a special working waterfront section of the city and armed with the success and experience in Vessel Services, they were ready to take the opportunities

**These people, through their own private risk and vision, have created a place for the fishing industry...**

industry would somehow turn around. Once they made the investment in Vessel Services, they were committed to making it work.

During this period, others in the fishing industry were investing, too. Cozy Harbor Seafood, Willard-Daggett, Gowen, Nick Alfiero, Reggie Lamb and many others made investments in other parts of the waterfront.

Typical of the spirit of the times, Clark Bennett of Portland Sebago did not become bitter with the loss of the ice contract. As part of the Woodman group, with Roger Woodman Jr., Bennett is actively involved in boats and waterfront businesses.

Portland was not staying still either. The city had been discovered. Most leading magazines are now calling Portland one of the most "livable" cities in the country and young professionals and land speculators have descended upon it. When the 88 proposed condos on Central Wharf went on the market in 1985, they sold in three days for prices which ranged between \$150,000-\$300,000.

By 1983, when the fish pier actually existed, real estate pressure had become the driving force which helped shift the focus back to the pier. The industry was ready. Armed

that the new berthing shortages and real estate squeeze represented.

It is the Vessel Services group, committed to making the pier work, who have taken those opportunities. In 1984, Davidson and Tetrault beat out big developers to win the contract for the service building on the pier. Their \$1.7 million Marine Trade Center has been a huge gamble, and a hard financial fight, since the rest of the pier is not yet operating in full swing.

Now many of the same group, led by Balzano and Bradley, have bought Hobson's Wharf. Stimulated by the worsening berthing problem, they have taken a \$2.1 million leap and are developing the wharf for fishing uses. The Hobson's development, combined with Gowen's expansion on Berlin Mills Wharf, is insuring that the fishing industry will have a solid block of waterfront to operate from.

Now it is time to pick up the auction thread again. As with the zoning, several years of hard bargaining between fishermen and processors over the auction have set the new Portland Fish Exchange up for solid success. Throughout this, processors such as John Norton, Dave Bergson, Asger Jorgenson and Nick Alfiero have staged vigorously involved.

The negotiations broke down in

1984, and eventually Tom Valleau, the city's Director of Waterfront Facilities stepped in and suggested that Boston's Tom Fulham propose an auction structure. Now, after Fulham's report and more argument, the Portland Fish Exchange has a board of directors made up of major players on the waterfront. The board is an impressive group of people, with impressive knowledge, who are putting in long hours to make the auction work. If anyone can, this group will.

Now, at the end of the story, it's important to realize this story is full of problems as well. The years have been just as full of mistakes and bumbles as anything else, anywhere.

And there is still much to do. Portland still has berthing problems, perhaps even worse than before. The Portland Fish Exchange is untried. Portland doesn't yet have a reduction plant, a must for a serious fish city. The city is perched on the edge of a major test to the marine zone over a condominium project right next to the fish pier. And the city has not yet made a commitment to pier management after Olsen leaves.

What is done, though, is that the commitment of the industry people has shown that regular people can make a difference. These people, whose names make up a who's who of Maine fishing during the last 10 years, have given of their time on boards, associations, and commissions at the same time.

And in looking at the group of fishermen and professionals who have made these investments in the waterfront, what is worth pondering is what they have done for the fishing industry. These people, through their own private risk and vision, have created a place for the fishing industry on the valuable Portland waterfront, a legacy for generations of fishermen and processors to come.

Robin Alden Peters

The new berths at the Portland Fish Pier already are filled with 17 draggers of 60 feet or more. The open-display Fish Auction on the Pier will open this April 28th, providing new jobs and a marketing mechanism unique in the U.S. A fish plant on the Vinalhaven fish pier is landing 2-4 million pounds of fish per year, employing 50-65 people and serving 64 vessels.

The \$9 million State contribution to these fish piers came from a 1979 Bond Issue. The Program generated \$8.2 million in Federal participation, and \$5 million in direct private investment, in addition to \$4.8 million in local participation.

o Maine's Waterfront & Pier Rehabilitation Program

Maine's Fish Pier Program has been instrumental in modernizing marine infrastructure, but many smaller projects have been bypassed. Recognizing that increased costs have made it impossible for wharf users to pay the entire bill, Maine's Coastal Program and Department of Transportation are now proposing a new program to assist with rehabilitation and construction on some of the small and medium-size piers used for fishing and commercial marine activities.

Progress on a coast-wide waterfront and pier needs inventory to provide the basis for the program is described in Section 5.D in Part I, Appendix A. The next step is to hire an engineering consultant to assist in evaluation of proposed projects. Passage of L.D. 2250 by the 112th Legislature sets the stage for voter approval in November of a \$10 million General Fund Bond Issue, including \$ 4 million for harbor improvements.

o Harbor Management Issues & Accomplishments

The primary harbor management issue of the day is the growing conflict commercial fishermen of the traditional working waterfront and economic pressure for conversion of limited waterfront space to condominiums and marinas, illustrated by the sampling of clippings reproduced on the following pages.

Portland's Central Wharf, to be renamed Chandlers Wharf, formerly providing tie-up space for about 25 commercial fishing and lobster boats, was the first to be claimed for condominium development. The Maine Times reported in September 1985 that "the sale of 72 units initially put on the market took only three days. Prices ranged from \$155,000 to \$403,000."

## A tale of two waterfronts

The increasing value of seaside real estate is causing a scramble for properties along the Portland and South Portland waterfronts. Among the major properties in flux are:

**1. THE GAULT BLOCK:** The One Franklin Trust is proposing 50,000-plus square feet of offices and retail shops for this large property at the corner of Commercial Street and the Franklin Arterial, across from Bath Iron Works. Michael Marino, formerly the owner of The Roma restaurant, and partners Norman and Anthony Reef plan to include a seafood restaurant and a bank within the complex.

**2. THE CROSBY-LAUGHLIN PLANT:** Farley Industries of Chicago plans for a mixed use of the 12 acres containing the Crosby-Laughlin manufacturing facility, the former National Distributors Building and the former Portland Engineering property. It is the largest piece of property in the waterfront area owned by a single party.

**3. MIDDLE STREET SHOPPING CENTER:** The small shopping center across from Portland's Public Safety Building is scheduled for redevelopment by the Liberty Group. Developers Michael Liberty and David Cope, the developers of Central Wharf's condominiums, plan to construct two office buildings.

**4. COMMERCIAL STREET:** A \$1.9-million reconstruction of Commercial Street is scheduled to begin in the fall of next year. It involves rebuilding the street and removing the railroad tracks. Most of the money for the project is from the state.

**5. WEST SIDE OF THE MAINE STATE PIER:** The city planning board is reviewing plans for a taxpayer-financed \$3.6-million Casco Bay ferry terminal and parking garage. The project is expected to be completed in the spring of 1987.

**6. PORTLAND PIER:** General Properties will go to the planning board this month with a proposal for a 20-unit condominium and office complex in the two buildings they own. At the end of the wharf where New Meadows Lobster is now located, owners Pete McAlaney and Ross Brooks plan a venture with the city for a public park area and probably some shops. The city is also planning a pedestrian walkway and lighting improvements on the pier.

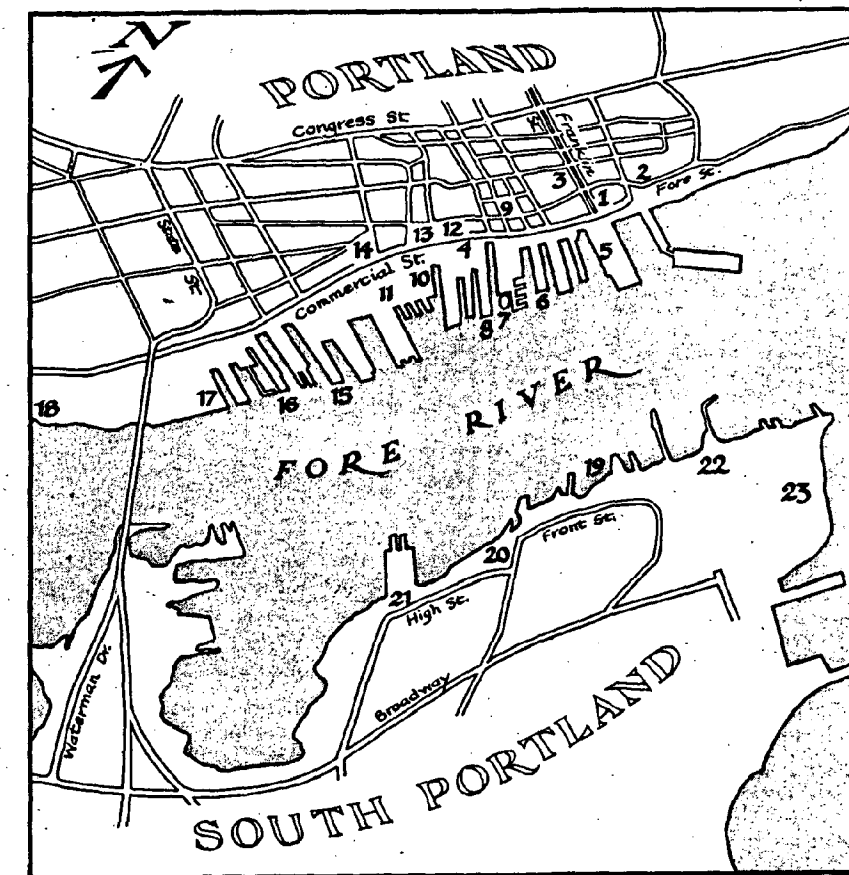
**7. LONG WHARF:** Tony DiMillo is planning a "boatel" to be adjacent to his floating restaurant at the end of the wharf. The Boatel (a barge) would contain about 120 rooms.

**8. CENTRAL WHARF:** Construction on an 88-unit condominium building, called Chandler's Wharf, is underway by the Liberty Group. It is the first condo on the water side of Commercial Street. There will be slips for pleasure boats at the wharf.

**9. MILK STREET ARMORY:** An earlier \$7-million Old Port Regency Hotel proposal is being redesigned and additional investors are being sought by owners Armory Associates. Part of the project will include a parking area now occupied by the Jordan's Meats warehouse on Fore Street.

**10. CUMBERLAND WHARF:** Owner Bob Levine has closed his Cumberland Cold Storage building and a Boston developer, the McCourt Group, has an option to buy the property. McCourt wants to build condominiums at the site but the plan has been rejected by the planning board. The wharf is in the W-2 marine zone that does not allow condo development but McCourt is requesting a variance from the city.

**11. PORTLAND FISH PIER:** Work to accommodate fish boats unloading and berthing has been completed, as well as construction of a vessels' services facility. Now being built is a \$1.3-million cooler-auction building where wholesale fish auc-



tions will take place. Talks are going on with potential processors who would locate at the pier.

**12. CARR BROS. BUILDING (The Chase Block):** Ram Development Company is renovating the part of the block on Commercial and Union streets for office space.

**13. Edwards Supply Warehouse:** Dictar Associates is renovating the building for the new law offices of Drummond Woods Plimpton & MacMahon, the new owners.

**14. PORTEOUS WAREHOUSE:** The Finch Group of Boston is about to start an 82-unit luxury apartment house and health club. Porteous, Mitchell and Braun has moved its warehouse operations to a new building in the Stroudwater Estates Industrial Park.

**15. HOBSON'S WHARF:** A group of fishermen is purchasing the property from General Properties Inc. and has received a \$1.62-million industrial development bond and state guarantee for the deal. It will be developed for fishing, boat berthing and for fish and shellfish processing.

**16. HOLYOKE WHARF:** Bob Levine, owner of Cumberland Wharf, recently sold this property to Bar-Mar Realty (Gus Barber and restaurateur John Martin). But no significant change can occur there yet because the major tenant, Maine Fisheries Corp., the city's largest seafood processor, has another two years left on its lease.

**17. PROPOSED WATERFRONT PARK:** A \$40-million waterfront park, highlighted by a new Gulf of Maine Aquarium, is being planned for the property where the International Ferry Terminal is located. The first proposal, which included a new international ferry terminal, a 100-room hotel, a restaurant, shops, offices, and parking, was turned down by the city. But the two parties are scheduled to talk after Labor Day about what kind of plan would be acceptable to the city.

### 18. PROPOSED CARGO PIER SITE:

A task force headed by Portland Mayor Joseph Casale is reviewing plans for a proposed \$12-million cargo pier. The group is looking at the best site for the project and Portland Terminal Wharf 3 is being considered.

**19. CHANNEL CROSSING RESTAURANT AND MARINA:** Located on Front Street, the \$1-million Channel Crossing opened a year ago and encouraged other investors into the South Portland waterfront area. The owner, Jamison Tavern Associates, is planning a half-million expansion to double the size of the marina to 120 slips.

**20. PINE STREET TOWNHOUSES:** Dick Ingalls is proposing an expansion of his townhouses. He already has four townhouses on Pine Street and his plan for three more is in the planning review stage before city officials.

**21. THE DUNFEY CORP. CONDOS:** The Dunfey Corp. has an option to purchase property on High Street near the Coast Guard Barracks. The company wanted to build 68 units but the city attorney has ruled that 68 is too many for the lot and has sent Dunfey back to the drawing boards.

**22. PINE STATE BY-PRODUCTS PROPERTY:** Harbor's Edge Trust of Massachusetts purchased the 7.6 acres last year for \$832,000 at a foreclosure auction. The company wants to build condos but plans are on hold until the city completes its rezoning.

**23. FORMER GENERAL ELECTRIC and Greater Portland Development Commission shipyard properties:** This 60-acre parcel — Spring Point — is under option by a group headed by Al Glickman that plans condos, offices, a marina expansion and industrial development. The proposal is being worked out by Spring Point Associates.

(PA)

Illustration by Jon Luoma

MaineTimes 9/6/85

From condos, and marine businesses

## Portland's working waterfront under siege

PORTLAND, ME - A Boston developer will try again this fall to get zoning changes to allow a \$15 million condominium project at Portland's Cumberland Wharf.

The McCourt Company, Inc. has spent an additional \$60,000 to pay off creditors and stall foreclosure proceedings against wharf owner Bob Levine until mid-October, said Austin Regolino, McCourt's project director. Meanwhile, McCourt will seek to amend the waterfront's zoning ordinance.

McCourt spent \$50,000 earlier this summer to delay foreclosure during an unsuccessful try to get variances to the zoning ordinance from the Portland Board of Appeals.

Cumberland Wharf, the eastern neighbor of the Portland Fish Pier, is situated in the waterfront's protective marine zone which prohibits housing. McCourt wanted to create housing, offices and build a 500' pier extension to provide berthing space for boats using the fish pier.

In July the Board of Appeals denied McCourt variances that would have allowed housing and eliminated standard guidelines for building height and setback.

Regolino said McCourt will try to get a zoning amendment through the Portland Planning Board, a process that ultimately requires approval by the City Council.

The planning board's review of the project would be slightly different than that of the board of appeals, said Lee D. Urban, McCourt's attorney in Portland.

The board of appeals intends to give existing zoning flexibility by reviewing changes on a property-by-property basis, Urban explained.

McCourt would want the planning board to recommend to the council changes in the overall zoning ordinance or zoning map.

Elsewhere in Portland, development issues continue to affect the fishing industry.

City officials have given approval to an 88-unit condominium complex at Central Wharf. Central Wharf had provided tie-up space for about 25 commercial fishing and lobster boats prior to its sale last March.

The condo units went on the market for between \$150,000 and \$300,000 - and sold out within three days, according to developer David Coupe of Liberty Group. Demolition of existing wharf buildings is in progress. Coupe expects occupancy to begin next June. The area will be known as Chandler's Wharf.

The project gained notoriety because it is the first housing project on a Portland wharf. It is also the first housing project guided by the city's new waterfront mixed-use zone. The zone makes housing a conditional use dependent upon retention or relocation of fish boat berthing.

Coupe said it appears the 10 fishing vessels remaining at Central Wharf will eventually relocate to Hobson's Wharf. Hobson's is getting redeveloped by a group that includes a number of fishermen.

Another development issue is occurring in the waterfront's marine protection zone, where only marine or marine-related businesses are allowed. City officials believe that some of the uses on two properties in the zone may not satisfy zoning requirements.

Planning Director Joseph Gray Jr. sent letters to Samuel G. Davidson of the Marine Trade Center on the Portland Fish Pier and Parker Poole of Union Wharf. Gray told Davidson to explain the tenancy of a real estate company and a doctor's office in his building, while Poole was questioned about other non-marine uses at Union Wharf.

At a September meeting with the planning board, waterfront businesses argued for changes that would permit more flexibility in the marine protection zone. They proposed to:

- \*Allow commercial, non-marine uses in the upper stories of buildings more than 100' onto the wharves from Commercial Street.

- \*Allow Commercial Street buildings that are in the restricted zone to devote half their total floor space to non-marine use.

- \*Retain the prohibition of residences, hotels, motels, meeting or convention halls.

- \*Preclude the elimination of any existing fishing vessel berthing.

It is also proposed that the amendments would expire automatically in 10 years under a sunset provision.

There will be a public hearing on the proposed zoning changes, though no date has been set.

John Ferland

COMMERCIAL FISHERIES  
NEWS - OCT. 1985

## Marinas, condos attract boaters

In the last 10 years, three major marinas have been built in Portland Harbor alone. First was DiMillo's Restaurant and Marina with well over 100 slips.

DiMillo's was designed for and specifically caters to large yacht owners. Other clientele are those who annually find their way to Down East waters from ports of call as far away as Tampa Bay, Fla., San Diego, Calif., Chesapeake River, Washington, D.C., and numerous other Eastern and Gulf port cities.

In addition to DiMillo's, there is Spring Point Marina, with more than 200 slips and full marine services, plus the recently added Channel Crossing Marina with a leisure restaurant and more than 100 slips.

Added to this is the phenomenal growth of marinas going up along the coast, including those at Handy Boats in Falmouth, Yarmouth Boats in Yarmouth, Great Island Marina in Harpswell, Robinhood Marine Center in Robinhood, Burgess Marina on the Kennebec in Bath,

**'Maine is becoming the boat mecca of New England with thousands of ocean enthusiasts transplanting themselves to Maine as live-aboard boat owners or summer-long dockside residents.'**

Brewer's Boat Yard at Southport Island, Blake's Marine at Boothbay Harbor, Brewer's Marine East at Boothbay Harbor, Coastal Wharf at Boothbay Harbor and the recently expanded Coveside Marine, Christmas Cove.

As a result, Maine is becoming the boat mecca of New England with thousands of ocean enthusiasts transplanting themselves to Maine as live-aboard boat owners or summer-long dockside residents.

And many number among the newest phenomenon in Maine - those who have purchased luxury coastal condominiums in order to participate in boating and to have a safe harbor and winter storage.

Condominium approvals in Boothbay Harbor alone have reached more than 80 this year. This, coupled with other condominium developments along the coast have enticed out-of-staters to extend their boating activities in Maine from May through October.



# Casco Bay awash with boats

By JOHN FERLAND  
Staff Writer

Never before has pleasure boating been so popular in Casco Bay — and never before has it seemed so complicated.

If you get involved in boating for the first time this season, you'll find that buying a boat is relatively easy. You can become a boat owner for about the same money required to buy a small car.

The problem comes when you're ready to put the boat in the water. Most marinas and public mooring areas have waiting lists.

In the central area of Portland Harbor, there are nearly 400 more boats now than five years ago, according to figures supplied by private marinas.

Harbormaster Alfred Trefry said people are waiting three deep to use the most popular public mooring areas near Centerboard Yacht Club, Spring Point and Peaks Island.

The reasons for the boom in the boat business are many.

- ✓ Portland Harbor's water is cleaner than before.
- ✓ Family recreation is popular.

- ✓ Coastal waters are being viewed more and more as recreational resources.

- ✓ A healthy economy has kept interest rates and fuel prices relatively low.

Even if public moorings become available, boat owners have to be patient.

The harbormaster is generally a part-time employee with a full-time job description. Don't be surprised if it takes him a while to respond to your mooring application.

You must also become aware of harbor rules. They change every few years as communities mold their regulations to meet current and projected conditions. You'll need to read the latest version of the local harbor regulations to learn fees, the mooring application process, speed and wake laws, and other details.

That brings up another issue: harbors and public policy. Harbors are getting management studies and new zoning ordinances. Harbormasters are asking for larger budgets to provide full-time coverage.

The irony of this is that many boaters use the water to escape the structure of the landlubber world.

But few appear discouraged. "I think people are looking at life very differently now," said Jan Bowers, office manager for Port Harbor Marine, operators of South Portland's Spring Point Marina.

"They feel they only go around once in life so they might as well do what they can. They figure if they're going to have a bill, they may as well pay for a boat."



A forest of masts fills Channel Crossing Marina in South Portland.

Staff photo by Merry Furum

## Sewage treatment cleared waters

By JOHN FERLAND  
Staff Writer

Portland Harbor was a boat owner's nightmare until the construction of sewage treatment facilities in Portland and South Portland in the late 1970s.

"Portland, as recently as 10 years ago, didn't hold out the welcome mat," recalled Thornton Ring of South Freeport's Ring's Marine Service. "It held out the 'go away' mat."

The public investment in environmental protection spurred private investment in boating facilities. As each project proved successful, other businesses got into the act. Marinas have joined shops, offices, housing and commercial marine improvements in changing the personality of Portland Harbor.

The impact of marinas has been dramatic.

Consider what has happened over the last five years.

In South Portland, Port Harbor Marine grew from 20 to 208 slips and Channel Crossing created 128 slips.

In Portland, DiMillo's Marina created 112 slips.

A new 150-slip marina is proposed for South Portland. Port Harbor wants to increase by 30 slips, and a marina is proposed as part of an 88-unit condominium project on Portland's Central Wharf.

The healthy boating economy is reflected in increased tourism, strong retail sales and business expansion.

DiMillo's Marina expects to service 1,000 traveling boaters this summer as people tour the harbor on their way up and down the coast, said manager Bill Scherr.

"The wonderful thing about being here is that people can bring their boat, be next to the Old Port and sort of have their own

condo in downtown Portland," Scherr said. At Port Harbor Marine, operators of Spring Point Marina, sales of powerboats are up 35 percent — mostly for boats in the \$7,000 to \$10,000 range.

The 200-slip marina plans to add eight slips this year and another 30 sometime in the future.

"If I had another 100 slips, I'd have no problem renting them," said Jan Bowers, office manager.

After one year of operation, Channel Crossing has nearly tripled to include 128 slips. About 25 percent of the people using the marina are first-time boat owners.

"I don't think we've seen the top of it yet," said manager Kate Harmon. "There's an awful lot of new boaters each year."

Portland Harbor's experience is part of a trend affecting all of the Casco Bay area.

The latest figures for recreational boating from Freeport to Scarborough were compiled in a 1983 study conducted for the Greater Portland Council of Governments.

The report estimated about 2,100 boats in the region, or one for every 62 people. The report said boating is increasing at an annual rate of 4 to 8 percent — a modest figure that gains significance when one considers that boating growth in the area was stagnant just a few years ago.

As in Portland Harbor, companies in the region are responding to growth in various ways.

Four sailing schools have been established at Falmouth's Handy Boat Service Inc. in the last two years and the company expects its charter business to increase 25 percent this year, said Jonathan Knowles, vice president and sales manager.

Knowles said nationally, powerboats are more popular than sailboats because new boat owners feel motorized transport re-

quires less education and training. But surveys indicate more people would sail if they had the chance to learn the sport, Knowles said.

"We have no question that there's an interest," he said. "But if we don't provide opportunities to learn, they'll either buy a powerboat or go play golf."

Other companies are investing heavily in slip and storage area expansions, and mixed-use developments.

South Freeport Marine Services has bought 70 acres in inland Freeport as part of a plan to double its boat storage capacity to 400 over the next few years, said owner Jeffrey Gurnham.

The company has also initiated a Portland Jetport transportation service because many of the 75 customers who berth at South Freeport Marine are from out of state.

And the company has applied for a dredge permit to allow construction of 10 more slips to handle South Freeport Harbor's growing transient boating market. Many boaters come to South Freeport Harbor to pick up L.L. Bean Inc. shuttle buses that take them to Freeport's expanding downtown.

Yankee Marina in Yarmouth, which is home to 64 boats, is part of a multimillion-dollar proposal for a bigger marina and condominiums, an inn, a restaurant, shops and offices. The condominiums would sell for up to \$200,000.

Another strong illustration of boating's growth is its popularity at various income and interest levels.

The upper end of the market is handled by places such as Handy Boat, where physicians are student sailors in advanced racing classes, and South Freeport Marine, where crews recently installed a \$15,000 computerized navigation system for one boat.

PORTLAND PRESS HERALD 7/30/85

# Harbormasters prepare for the onslaught of summer

By Laurie Lodgard

As summer fast approaches, the caretakers of York County's harbors are preparing for the usual onslaught of people, particularly the commercial and recreational boaters whose appearance is directly proportional to sun, temperature and in some places, tuna.

Over the years, as summer and year-round populations increased, harbors from York to Kennebunk have been filling to the brim with boats. As a consequence, waiting lists for mooring space have grown and harbormasters work each spring to juggle available space.

This season in particular may be a booming one for area harbors, with dropping gas prices and lower interest rates. Yet the problems that might result from such a boom along the southern coast are as varied as the coastline itself.

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## Pepperrell Cove

Almost hidden by Garrison Island at the southernmost tip of the state, Pepperrell Cove is home to mostly recreational boats and the few fishing boats that moor there.

Since Harbormaster John Emery resigned last month, Town Manager Eric Strahl said Kittery's Port Authority has been interviewing prospective candidates for the harbormaster's job. In the absence of a harbormaster, the cove is being supervised by Port Authority Chairman Frank Frisbee.

Strahl said the town operates a facility for boat launchings and requires applications for moorings. Presently, he said there are "well over 100" names on the waiting list for moorings and the cove is filled with boats.

"(The cove) has expanded over the past couple of years," Strahl said. "Primarily because the people who have moorings haven't given them up."

Boats in Pepperrell Cove are berthed on single-boat moorings and there is a small pier for boats to load and unload passengers or cargo.

Kittery residents are not required to pay a mooring fee. Non-residents pay a flat fee of \$50 for vessels up to 25 feet in length and \$100 for boats more than 25 feet long.

## York Harbor

Continuing a brief journey along the southern Maine coast, the second major port-of-call might be York. York has a fairly good-sized harbor with a northern and southern basin that fills every summer with both commercial fishing vessels and recreational sailboats.

Harbormaster Sarah Newick, who was appointed by the York Board of Selectmen last year, says it's a difficult harbor to navigate because of its strong currents.

As a result of a mandate from the U.S. Army Corps of Engineers last year, which ordered equitable mooring costs for those in York, Newick and the York Port Authority have spent their time completing a bow-and-stern mooring plan for the south basin and working on the rearrangement of floats for the north basin.

"York is progressing," Newick said last week, noting that under her management, the south basin moorings are completed and work is under way for the north basin.

In that area, she said, floats will be arranged into a three-row system that may provide space for additional bow-and-stern moorings. Given the numbers of boats there, that space will be highly valued.

According to Newick's annual report to the town, there were 424 registered vessels moored in York harbor last year. In 1984, the harbor held 361 boats. And this year, she said, there are already more than 200 people on the waiting list for mooring space.

Mooring space in York is given out on a first-come, first-serve basis, and boat owners are required to provide their own mooring tackle.

Consequently, some folks, particularly commercial fishermen, believe they should have moorings before others.

"It works both ways. Everybody wonders why

everybody else gets a mooring," Newick said.

Newick said her main concern is having the harbor dredged. She said the harbor was resurveyed last week by the Corps of Engineers for depths, but there has not yet been any action taken by town officials to get a dredging project going.

"It will be a problem, especially where to put the spoils," she said. "It's an issue I'm very concerned with."

## Perkins Cove

A little way up the coast and almost tucked away, a traveler comes to Perkins Cove in Ogunquit. Quaint and picturesque, this cove is popular with local fishermen, especially those from Down East who follow the tuna each summer.

Harbormaster Bud Perkins said he is "pushing" to get 85 to 90 boats in the cove this season, while keeping a sharp eye on more than 40 individuals on the town's waiting list for a mooring space. Yet while Perkins is working out the logistics of mooring arrangements, much of what he does is being dictated in the selectmen's meeting room at town offices.

Last week the Board of Selectmen agreed to a number of recommendations made by a harbor advisory committee composed of local fishermen.

Specifically, selectmen had policy questions about how to deal with boat owners who have bought a bigger boat and require a larger mooring. Since the town's mooring waiting list is categorized by residency and vessel type (commercial versus recreational), the board was unsure whether or not someone requesting a larger mooring space should be given one, or moved to the bottom of his or her category on the waiting list.

The harbor committee decided such a request would be made in writing to the harbormaster and the boat owner's name would be placed at the bottom of the list. The committee and the board also agreed on a few other changes.

First, they asked for the reinstatement of transient moorings, which in the past have been used primarily by tuna fishermen who stay at the cove for a few weeks as the tuna run. Town officials said some residents were using the \$100 temporary moorings to circumvent the waiting list.

Under the new policy, the mooring holder and the temporary holder will pay a full mooring fee, a minimum \$250. The temporary mooring holder can only come from the waiting list, on a priority basis.

The most significant change concerns a new policy for applying for a mooring.

It will now cost each applicant, including those presently on the waiting list, \$150 to apply. If the applicant receives a mooring, the fee will be applied to the mooring fee. If the applicant withdraws from the list, the fee is forfeit.

"They're trying to eliminate the people on the list who are there just because it's the thing to do," Perkins said. "I don't approve of it, but it's what they passed, so fine."

Whether or not it's the thing to do, people do want to moor in Perkins Cove, some so badly they have been on the waiting list for as long as 10 years.

"We're overcrowded and have a big waiting list," Perkins said. "But we have no problems that any other harbor doesn't have."

## Wells Harbor

The great hope for the as-yet-unapped potential of Wells Harbor is dredging, according to Harbormaster Roland Falconer, who would like to see the project get going later this year.

"If the harbor was dredged, we'd have more boats than we have now," Falconer said during a recent interview in his office overlooking the harbor.

He said the harbor has not been dredged for 12 years and in recent summers has posed a threat to some boaters. Last year, he said, there were several serious accidents when boats ran into jetties.

The additional space, and the resulting revenue it would provide, are two good reasons for dredging Wells Harbor. There are presently 73 boaters on the waiting list for moorings, Falconer said, and calls come in daily from more applicants.

"It's one of the better harbors on the Maine coast and it's protected," Falconer said.

Action taken earlier this year by the Wells Board of Selectmen may alleviate some of the harbor's problems.

The board agreed to expand the town's jurisdiction of the harbor into an area of the Webhannet River estuary previously left open for boat owners to moor at no charge. That move will bring more revenue to Wells through mooring fees, which Falconer says range from \$60 to \$130.

The town is also considering temporary eminent domain proceedings to take areas of Wells and Drakes Island beaches for the dumping of sand taken when the harbor is dredged.

Falconer says if the harbor was dredged, he could get 150 boats moored there "easily, without a problem."

Wells recently began charging private boat haulers who use the ramp at Wells Harbor. Other revenue boosters might include a parking charge for boaters who leave their cars and boat trailers in the town-owned lot and the possibility of taking over marina operations at the harbor after the lease for the Wells Harbor Marina runs out in 1988.

Presently, Falconer is waiting for Wells to purchase more mooring blocks while he spends time taking up the moorings from the "free area."

"I can honestly say I've had a lot of cooperation from the town manager and the Board of Selectmen," he said. "They realize the potential for this harbor."

## Kennebunk River

Farther north flows the Kennebunk River, also home to many boat owners and fishermen. Yet unlike the others, the safe harbor along the Kennebunk seems to have fewer problems relating to congestion or dredging.

Harbormaster David Emmons said there are usually about 80 boats moored in the river and there are presently 30 boat owners on the waiting list for mooring space.

The town charges no fees for mooring there; boaters apply for a space by writing to Emmons. Other boat owners have the option of berthing at one of several private marinas along the river.

"Oh, we're fine at the moment," Emmons said. "I don't foresee any problems. That depends on the congestion this summer."

The harbor area was dredged last year. There are single-boat moorings, so there's no need to worry about rearranging floats or setting up a bow-and-stern system.

"There's usually not much trouble," Emmons said casually. "We're hoping for a good year, with low gas prices and low interest rates."

## Portland

For those with dreams of traveling still farther north for a berth, Portland Harbormaster Alfred Trefry advises boaters to try elsewhere.

"I don't want to encourage them to come up here," he said. "There's little berthing for the fishermen we have here. All the marinas are full with waiting lists and the pier is filled."

Trefry explained how Portland, which has long been a commercial port for everything from fishing draggers to oil tankers, has undergone changes along its waterfront in recent years, resulting in some loss of space. The state pier is now closed to the Casco Bay Ferry Terminal and Central Wharf is closed for condominium development.

What is expected to be a boon to the local fishing industry is the opening April 28 of the Portland Fish Pier and Fish Exchange. The Portland City Council recently approved a \$200,000 loan guarantee and adopted a lease for the city-owned cooler-auction building where fishermen will watch as their catches are auctioned to area buyers.

Trefry said he received a few inquiries last year from boaters in this area interested in mooring on his waterfront, but none this year.

One change he's noticed is the attraction of more recreational vessels to Portland harbor.

"It was unheard of five years ago," he said. "Now we have hundreds and hundreds and hundreds more coming in."

Yet he was hopeful about plans to put 100 more slips in the inner-harbor sometime in the future. But for now, much like her sister harbors to the south, Portland is "full to capacity."

YORK COUNTY  
COAST STAR 4/3/86

# Kennebunkport wants to protect the fishermen, but the fishermen are skeptical

Cape Porpoise, one of the last remaining harbors in southern Maine where a lobsterman can haul a trap without interference, has increased its chances of staying that way. Last week voters approved measures which they hope will keep the fishing village just two miles north of Kennebunkport's tourist-oriented "Dock Square" safe from the blight of unchecked development they see spreading up the coast.

Under the changes to the town's land use ordinance, only marinas serving lobstermen and fishermen will be allowed in Cape Porpoise, and hotels and motels are prohibited. The harbor will not go the way of the Kennebunk River, with its \$100,000 yachts, condominiums and displaced fishermen — or so the voters hope.

The 70 lobstermen who work the Cape Porpoise waters ought to be pleased. But the response of a group of lobstermen tending gear at the town pier last week was more skeptical than grateful.

"You've heard the expression, 'Beware of Greeks bearing gifts'?" commented one lobsterman.

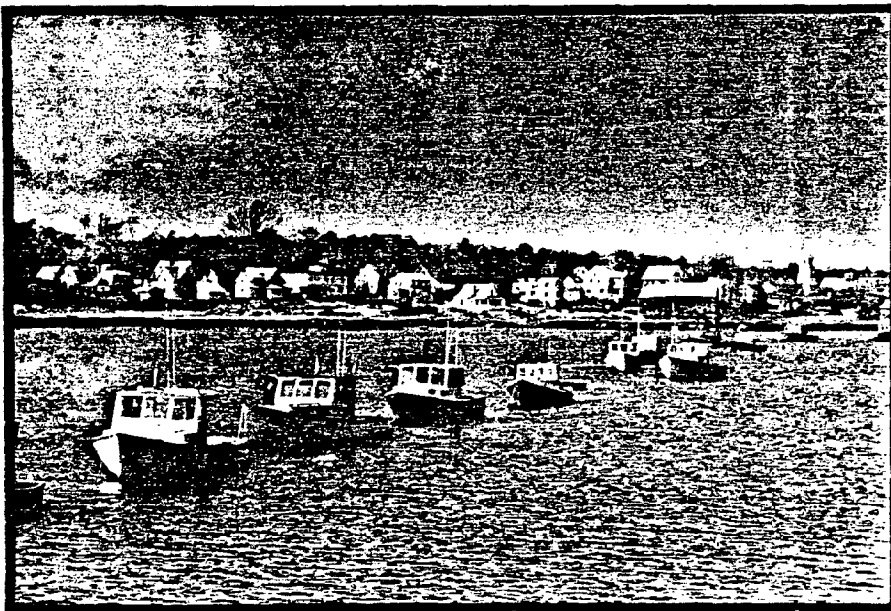
Behind that remark lies a traditional social gulf between Cape Porpoise's natives, 90 percent of whom depend on the sea for their livelihood, and people who have moved to town from out of state. Of course the three lobstermen on the pier favored protecting their harbor. But they don't like laws telling them what they can do with their property. Also, having watched harbor after harbor along the coast get turned over to yachtsmen and tourists, they didn't trust the law to stay on their side.

"What I've seen happen ain't fit to print. It looks like the developers are sitting in the driver's seat. They live in Town Hall," said the same skeptic, who didn't want to use his name.

"Town Hall" in this case is the board of selectmen, Planning Board and Zoning Board of Appeals — with most of the changes that apply to Cape Porpoise coming from the Planning Board. The reason Cape Porpoise has been singled out for protection is that board members see it as the next logical place along the southern Maine coast for tourist-oriented development. Until now, the cape has been saved partly because its wet, ledgy soil made it troublesome to build on. But a year ago, a Kennebunkport sewer line was extended to Cape Porpoise, reducing that drawback.

Cape Porpoise would be a developer's dream. It is one of the last scenic jewels in a string of rapidly tarnishing southern coastal gems. The harbor is studded with islands that were the focus of a preservation effort several years ago, when the Kennebunkport Conservation Trust bought five of them.

At the top of one long, narrow finger of the harbor sits a tiny clam shack draped in fishnet where



*Fishermen built the homes that line Cape Porpoise Harbor when they could still afford to live there. Now, the rising costs of living in Kennebunkport have driven many of them out of town.*

patrons can eat in or sit outside along the shore, watching lobstermen haul traps. On one side of the water sits a lobster pound; on the other is a modest canoe rental operation. In the nearby square, there is a post office, library, hardware store, art gallery, inn, and a couple of restaurants. are the small bungalows built by fishermen years ago, when they could still afford to live there. Now, half of them can't afford to live anywhere in Kennebunkport because of its skyrocketing property values and taxes.

Just to the north, lobstermen, fishermen, and a handful of summer yachtsmen use the town pier for fueling up and unloading. But they can't tie up there; boats are all moored off shore. In the summer, day-trippers pause long enough to take in the view from shore, or from a canoe just offshore. Without a marina, many yachtsmen stay only long enough to gas up at the town pier or down a bucket of fried clams before moving on.

That's just what the Planning Board wants them to do — keep on moving, before they take a good

look around and say, "This would be a great place for a motel or a condo." Board members included in the more than 20 amendments to the land use ordinance one that would restrict marinas built in Cape Porpoise to "commercial" (fishing and lobstering) use, and another amendment that extends a current ban on motels or hotels of more than 10 rooms in two areas of the cape to all areas.

Rather than mount an all-out attack against an explosion of condominiums and motels, the Planning Board has chosen an approach based on the proposition that if you can stop people from yachting up to marinas and seeing the great view from both sides of the harbor, you can stop the large-scale projects from following. That proposition has yet to be proved.

*Maine Times 3/28/86*

# Harbor Masters Group Forms New Association

Republican  
Journal  
4/1/86

Searsport Harbor Master Wayne Hamilton was one of a number of harbor masters from 15 Maine coastal, island and tidal river towns unanimously voted to establish the state's first association of harbor masters at a meeting March 18 in Bucksport.

According to Cooperative Extension Service Marine Specialist Conrad Griffin, the new organization arose as a response to the "isolation" of harbor masters in some 115 Maine towns from Kittery to Eastport.

"This is an opportunity to bring harbor masters together to focus on common concerns and exchange ideas and insights," explained Griffin, who, along with extension agents in coastal counties, lent organizational and educational assistance to the group. In the political arena, he added, the association will let harbor masters "speak with one voice, giving them significantly more influence."

The association's bylaws, prepared by attorney Edward F. Bradley Jr., set forth

more specific goals: encouraging effective and uniform harbor management, advancing the harbor master profession, improving harbor masters' knowledge and abilities, educating the public as to the role of harbor masters, promoting regulations to enhance management of Maine's harbors, and strengthening communication between harbor masters and local, state and federal agencies.

Membership in the association is open to all Maine harbor masters and their deputies or designees, Griffin said. Others with an interest in harbor resources — marine operators, restaurant owners, boatyard owners, select persons, town managers, and concerned citizens — may join as nonvoting associate members. Member dues, which the board will set by class of membership, will support the association's activities.

"This is not an elite group," Griffin stressed. "The association needs everyone's participation."

Portland has experienced continuing pressure to loosen its W-2 zoning restrictions preserving three-fourths of Commercial Street's water side for marine-related enterprises. This included a battle over a zone change to allow building of condominiums and offices on Cumberland Wharf, which was resolved when the developer withdrew his request at the end of September.

With the help of a \$ 1.62 million industrial development bond guaranteed by the Finance Authority of Maine (FAME), a group of fishermen managed to secure Hobson's Wharf for fisheries use, also in September. (See also the discussion regarding submerged lands in Section 8 of Part II, Appendix A.)

Dramatic increases in pleasure boats and marine development are reported all along the Maine coast. Voters in Kennebunkport in March, 1986 approved changes to the town's land use ordinance to allow only marinas serving lobstermen and fishermen in Cape Porpoise, and to prohibit hotels and motels.

The 112th Legislature adopted a policy of supporting and giving preference to water dependent uses that require shorefront locations, with passage of L.D. 2167, An ACT to Enhance the Sound Use and Management of Maine's Coastal Resources. The bill contains a provision specifically allowing municipalities to zone portions of their waterfront solely for water-dependent uses.

The Legislature also enacted L.D. 2313, An ACT to Clarify the Authority of Harbor Masters, a temporary stop-gap until a complete review of Maine's laws affecting harbors and harbor masters could be accomplished. The need for such a review was one of the issues behind creation of a formal Association of Harbormasters in March 1986. The Legislature in L.D. 2313 ordered the Department of Conservation to conduct a study concerning all local and statewide issues raised by the bill, to be reported with supporting legislation to the Legislature by January 1, 1987.

## 6. Coastal Access Activities

The 112th Legislature, in L.D. 2167, An ACT to Enhance the Sound Use and Management of Maine's Coastal Resources, adopted an explicit policy of preference to water-dependent uses over other uses and promotion of public access to the shoreline. As a step in implementing this policy, the bill contains an amendment to the State Subdivision Law directing towns to make a finding that a subdivision "will not have an undue adverse effect on ... any public rights for physical

or visual access to the shoreline," as a condition for subdivision approval. (An example of a town already doing that is described in the following clipping about South Portland.)

A related bill, L.D. 2250, authorizes referral to the voters in November of a \$ 10 million General Fund bond issue which includes \$3,250,000 targeted for acquisition and development of land for coastal access.

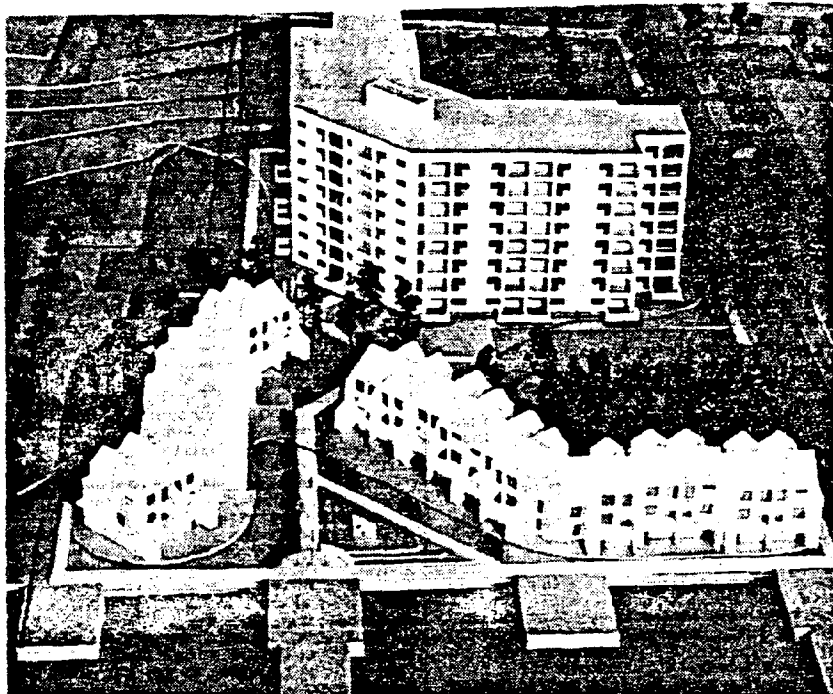
A program for public access to rivers was launched on March 26th when Governor Joseph E. Brennan accepted the first contributions to Maine's new Rivers Fund from leaders of sportsmen's, conservation, and environmental organizations. The Department of Conservation, which is administering the program, hopes to raise upwards of \$ 30,000 annually through private donations. Grants will be available from the Fund to organizations and communities for river management and improvement projects, such as new or improved boat launching sites, picnic areas and other facilities needed for public river use. The Program is expected to be a catalyst for local volunteer efforts for litter clean-up, erosion control and other projects to promote high quality river recreation opportunities.

Public access to ocean beaches continues to be a major coastal issue. As of the end of the reporting period, the State Supreme Court was scheduled by summer to rule on the controversial Moody Beach case, in which landowners sought to reaffirm property rights to the low water mark and exclude public access for recreation. The 112th Legislature took its own stand on the issue with passage of L.D. 2380, An ACT to Confirm and Recognize Public Trust Rights in Intertidal Land. The bill states explicitly that the public trust encompasses uses of intertidal land including "fishing, fowling, navigation, use as a footway between points along the shore and use for recreational purposes." The news clippings reproduced on the following page provide further information.

Public access to coastal islands is the subject of a study conducted for the Maine Bureau of Public Lands by the Island Institute. Released this spring, the Institute's Coastal Island Recreation Management Report makes recommendations for developing the recreation potential of 150 State-owned islands.

7. Changes to Coastal Zone Boundaries & Management Authority

All of the items in Maine's 1984 Routine Program Implementation submission were fully resolved during the reporting period. Coastal communities and interested state



This model by Therrien Architects shows the proposed \$9 million Breakwater Condominium project.

Staff photo by Doug Jones

## Condo proposal hits snag on public access

PPH  
3/13/86

By JAMES SAUNDERS  
Staff Writer

**SOUTH PORTLAND** — The Planning Board put The McCourt Co. on notice Tuesday night that it expects the firm's proposal for a \$9 million condominium project on the old World War II shipyard to include a public walkway around the water's edge.

McCourt representatives replied that they had never before encountered requirements for such broad public access.

The company's project manager, Austin P. Regollino, said in the past the firm had provided points of public water access in waterfront projects but not the continuous stretch brought up. He said it would weaken security in the proposed residential development.

But the board majority, with James Brewster the most outspoken, told the Boston developers that on public water access, they face a new experience here.

Following a two-hour presentation and review, board members gave 6-1 preliminary subdivision plan approval with the provision that the water access they demanded be provided.

A great deal more board review plus a public hearing lie ahead on the road to final action.

Board members in Tuesday night's spirited review made it clear that they are looking at a lot more than the immediate McCourt proposal.

The city — whether it wants to or is ready to or not — will find itself weighing the future of much of the former World War II shipyards.

The McCourt Co. on April 1 expects to acquire from Spring Point Associates a 41-acre

tract within the former East Yard, of which its 174-unit Breakwater condominiums will be a part. It plans over time to remove several giant old shipyard buildings to clear that area.

Beyond that, it came out, The McCourt Co. Inc. has a long-term option from Spring Point Associates on roughly 14 more waterfront acres, the former shipyard's north end, extending to the old breakwater and Bug Light.

Midway through the review, board member Charles Kahill expressed his concern that the matter before the city is much bigger than Breakwater Condominium.

"This is a major decision for the city," referring to the future of the former shipyards.

It appeared, he added, "that it's not to be a working waterfront. I feel uncomfortable about having even preliminary approval before we have public input."

Some board members wished for a wider, long-term plan from McCourt.

At one point, Brewster argued that private development should not mean private ownership of everything.

"You don't own that ocean," he declared in a raised voice to the developers, "and you don't own 100 percent of the view. We must keep our citizens as well as these tenants in mind."

At one point when McCourt planning consultant Evan Richert said he "had a problem" with an unbroken walkway concept of public access to the water, Brewster quickly agreed.

"Mr. Richert, you've got a problem of about five votes (out of seven) on this board to address that walkway."

# A coastal challenge

As would-be beachgoers have discovered over the years, in Massachusetts a private beach can be very private — right down to the low-water mark.

Massachusetts courts have consistently upheld a 340-year-old ordinance that gives anyone owning coastal land the rights to the intertidal lands as well — allowing the public to use them only for fishing, fowling, and navigation.

Restrictions on the public's recreational use of its coastline are now being challenged in Maine — part of the Massachusetts colony, which inherited its colonial law. Massachusetts officials should watch that challenge closely.

Legislation which would add recreation to the list of public uses permitted on privately owned beaches has been filed by state Sen. Mary Najarian of Portland. She argues that the absence of "recreation" in the colonial ordinances does not mean that such things as swimming and sunbathing were explicitly barred.

We think that fishing, fowling, and navigation were just the uses that were important in colonial times," Najarian said. "Recreation wasn't important to them and so it was just not explicitly mentioned."

The Maine challenge attempts to answer objections raised by the Supreme Judicial Court when Massachusetts legislators sought to expand public access a dozen years ago. The court ruled then that any action that usurped the rights of property owners without compensation would be unconstitutional.

With some 80 percent of the state's 1,200 miles of coastline in private hands, the cost of compensation would be too great, and the bill died.

The Maine bill argues that the public right was always there, just not spelled out.

Richard Delaney, director of the Massachusetts Coastal Zone Management Agency, noted that state officials have been watching a trend among courts in other states to expand the public's rights to the coast. In Maine, where colonial rights of fishing, fowling, and navigation have been the law, courts have allowed use of the intertidal zone for skating, walking from one place to another, and for hauling out a boat while visiting.

Massachusetts has made great efforts in recent years to purchase coastal property, and plans to continue that policy. Legislators and environmental officials should examine the possibility of expanding the public's rights of access to beaches which remain in private ownership.

BOSTON GLOBE 2/19/86

## AG supports public beach use

PPH/2/86  
By CHRISTINE KUKKA  
York County Bureau

**WELLS** — The state attorney general Tuesday filed written arguments with the Maine Supreme Court urging it to affirm a precedent-setting lower court decision that sanctions public access to Maine's sandy beaches.

The state's highest court is scheduled by summer to rule on the controversial lawsuit that seeks to bar the public from the mile-long, sandy stretch of Moody Beach.

Two years ago, 69 Moody Beach landowners filed suit against the town of Wells and the state in an effort to block the public from the beach in front of their homes.

Last July, a York County Superior Court justice dismissed the beachfront owners' claim of private rights to Moody Beach when he ruled that the beach was protected by the doctrine of sovereign immunity.

Noting the importance of the question, the lower court justice ruled that the issue had to be decided by the state Legislature. For the court to decide, he said, it would be necessary for the state to waive sovereign immunity protection.

Because the beachfront owners had not asked the Legislature for a waiver of sovereign immunity before filing suit, Justice William S. Bro-

drick dismissed the suit last July.

As a result, beachfront owners lost their day in court to determine where public land and access began.

In October, beachfront owners appealed Brodrick's ruling, which basically endorsed the concept of sovereign immunity.

While the Supreme Court considers the appeal, all other motions relating to the lawsuit are on hold in Superior Court.

In his appeal to the Supreme Court, Sidney St. F. Thaxter, a Portland attorney who represents beachfront owners, questioned the use of sovereign immunity to protect recreational rights.

Thaxter cited Massachusetts court decisions that concluded that sovereign immunity protection does not include recreation, such as bathing and walking along the shore area.

There is a long history of case law in Maine, based on colonial ordinances, that say a property owner's land extends to the intertidal zone, Thaxter argued.

Massachusetts decisions that exclude recreational uses from sovereign immunity protection are based on the same colonial law that Maine law is based on, Thaxter said.

"We are not challenging the traditional rights of the public to fish and hunt along the intertidal zone," Thaxter said, "but we are challenging

recreational rights."

"The Massachusetts precedent must be rejected for two reasons," Maine Attorney General James Tierney argued. State officials claim that Maine law rests upon the state's tradition of recreational uses.

"Second, quite simply, Massachusetts' view rests upon a misinterpretation and misapplication of law and history," Tierney argued.

Other states, including New Jersey, have ruled that sovereign immunity protection extends to recreational rights, Tierney wrote.

Thaxter contends that Maine was once part of Massachusetts and adopted the same colonial ordinance as the Bay State. State law in New Jersey is not based on the Colonial ordinances that Maine law is based on, Thaxter said.

"The only state that has the same system of law as Maine, so that we can compare apples to apples, is Massachusetts," Thaxter said.

Tierney argues that the state is public trustee of Moody Beach and that the public is entitled to access to Moody Beach based on two decades of past use.

Thaxter is scheduled to reply to the state's written arguments within two weeks. Oral arguments before the Supreme Court are scheduled for March.



and federal agencies were notified of all approved Coastal Program core law and other management authority changes by letter of November 14, 1985. Also during the period, all changes in the core laws made during the First Regular Session of the 112th Legislature (1985) were compiled and annotated, along with 1985 changes in most of the associated regulations which are now included as Coastal Program management authorities. This material will be the basis for a new RPI submission this summer.

8. Changes in Strengthening the Management of Coastal Resources

The major change strengthening the management of coastal resources was the enactment of L.D. 2167, An ACT to Enhance the Sound Use and Management of Maine's Coastal Resources, described under "Coastal Issues and Accomplishments" and referenced under individual subject headings in this report. Additional changes not covered elsewhere are summarized below.

In a largely unheralded but important move, the 112th Legislature passed L.D. 2283, An ACT to Amend the Classification System for Maine Waters and Change the Classifications of Certain Waters, which is a major revision to the State's water quality classification system. The new law brings Maine into compliance with the federal Clean Water Act by updating and upgrading the classification system. Among other things it establishes: (a) a new class for the State's highest quality waters; (b) a new method for monitoring the toxicity of discharges to the state's waters; and (c) a strong State policy against allowing discharges which significantly degrade existing water quality. The new classification system will involve updating the quality level assigned to each of Maine's water bodies.

Pursuant to adoption of the Submerged Lands Law in 1975, the Bureau of Public Lands in the Department of Conservation has been issuing leases and easements for the use of inter-tidal and sub-tidal land without giving consideration to the type of use proposed. Most uses until recently were marine-related.

In March, 1986, following on an amendment to the Submerged Lands Law allowing the Director of the Bureau to base rental fees on desirability of use, and in response to increasing applications for upland uses of submerged lands, the Bureau adopted rules favoring water-dependent and associated uses and discouraging upland uses. Preliminary drafts of the rules were reviewed and commented on by the State Planning Office.

The shift in applications has been from leases for single piers for boat repair facilities, or docking for fishing boats, to piling and float systems for marinas or docking associated with multi-unit residential development. Easements are requested largely for single family recreational docking.

Development pressures on submerged lands are strongest in Portland Harbor, where local fishermen are being bumped aside by residential development on the wharves. The financial strength of such development puts the fishermen at a competitive disadvantage, forcing them to move to usually less-desirable locations.

9. Major Coastal Issues & State Role

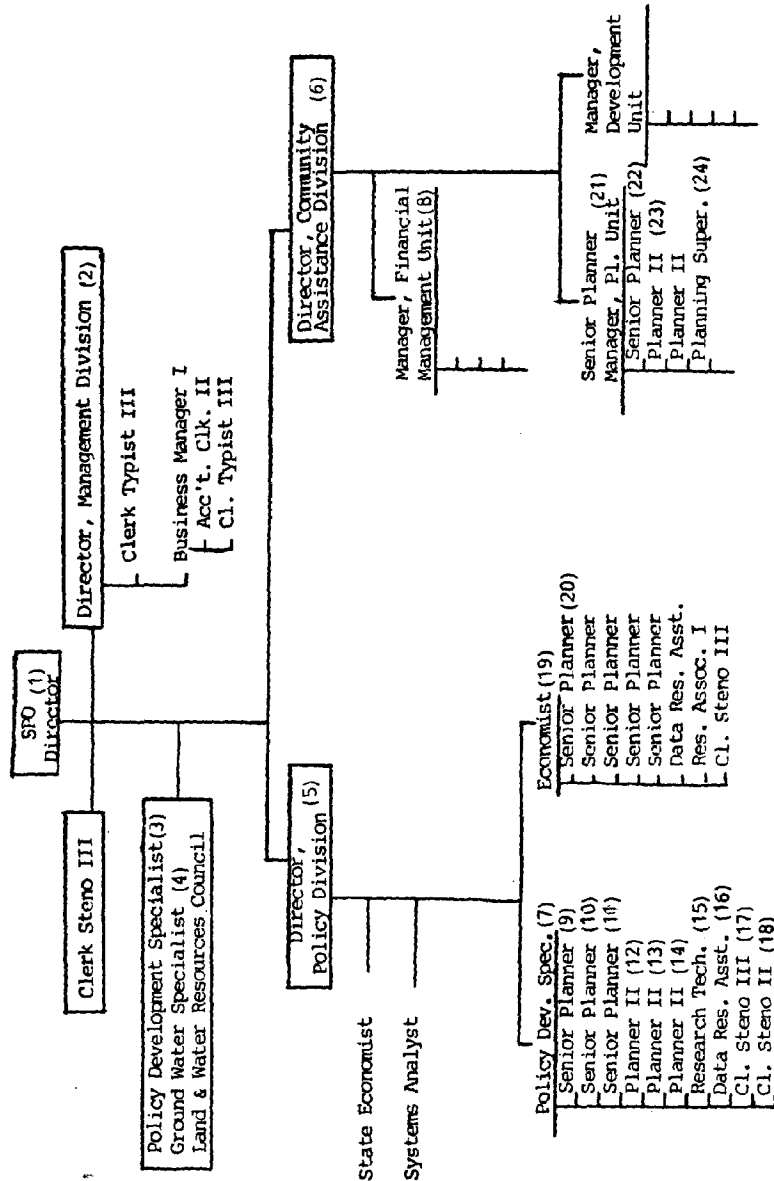
(See Coastal Issues & Accomplishments section of this report.)

10. New Publications Related to Program Implementation

- o The Maine Coast: Time of Change, Maine State Planning Office, March 1986.
- o Capital Improvements Programming Guidebook for Maine Communities, Maine State Planning Office, May 1986.
- o Maine's Intertidal Habitats: A Planner's Handbook, Maine State Planning Office/Bigelow Laboratory for Ocean Sciences, November 1985.
- o The Natural Resource Industries of Maine: An Assessment and Statistical Portrait, Maine State Planning Office/Finance Authority of Maine, May 1986.
- o The Landowner's Option, A Guide to the Voluntary Protection of Land in Maine, by Janet Milne, SPO Critical Areas Program, 3rd Edition, 1985.
- o The Maine Seacoast, March 1986, one of a series comprising An Atlas of the Resources of Maine, prepared by and available from the Center for Research & Advanced Study, University of Southern Maine, and the Land & Water Resources Center, UMO.

# 11. State Planning Office Organizational Chart

March, 1986



Coastal Program Staff	
(9) David Keeley, Program Manager	(21) John DeVecchio
(10) Katrina Van Dusen	(23) Sherry Hanson
(12) R.G. Blakesley	(24) Hal Kimball
(13) Gro Flatebo	(17) Aline Lechance
(14) Richard Kelly	(18) Lorraine Lessard
(15) Naomi Edelson	(19) Steve Adams
	(20) Dana Little
Other SPO Staff working on the Coastal Program	
(1) Richard E. Barringer	(6) Janice Hird
(2) Linda Harvell	(7) Holly Dominie
(3) Karen Massey	(8) Sam Jones
(4) Paul Dutram	(11) Hank Tyler
(5) Denise Lord	(22) Marv Rosenblum

Coastal Advisory Committee  
Minutes of Meeting, October 17, 1985

Summary of Action

1. Committee members were briefed on the Access Subcommittee's findings and were told they would receive a full report in several weeks. They were also briefed on the status of the Council's Data Management Subcommittee work on their coastal program work task.

2. Three draft legislative proposals were discussed including:

- o An ACT to Clarify Public Use of the Intertidal Area;
- o An ACT to Create a Shoreline Access Protection Fund; and
- o An ACT to Establish Coastal Management Policies

Attendance

Members

Richard E. Barringer  
Spencer Apollonio  
John Walker

State Planning Office  
Department of Marine Resources  
Maine Association of Regional Councils

Alternates

Penn Estabrook  
Hollis McGlaufflin  
Ren Spaulding  
Rob Elder

Department of Marine Resources  
Dept. of Environmental Protection  
Department of Conservation  
Department of Transportation

Others

Mark Sullivan  
Phil Ahrens  
Burt Cossaboon  
Karen Massey  
John DelVecchio  
Charlie Colgan  
David Keeley  
Mike Healey

Department of Conservation  
Attorney General's Office  
Greater Portland Council of Government  
Land & Water Resources Council  
State Planning Office  
Finance Authority of Maine  
State Planning Office  
Verrill & Dana

A. Call to order. The meeting was called to order by Dick Barringer at 10:15 A.M. Dick suggested introductions be made which they were.

B. Agenda

Information Items

1. Access Subcommittee Findings

David Keeley provided a brief overview of the work by the public access subcommittee. At the January, 1985 meeting this subcommittee was formed to review and make recommendations on ways to improve coordination between State administered public access programs. These programs focus on publicly owned and maintained sites and have well-defined user groups. The subcommittee determined four state agencies (DMR, IF&W, DCR, and SPO) are responsible for six programs that allocate \$1.5 million a year to public access projects.

The subcommittee recommended coordination between programs be improved, DMR identify the level, type and geographic areas of commercial access needs, and that the Maine Coastal Program focus access funds on types of projects not funded through other programs.

The Committee agreed three items needed to be done:

- a) David Keeley and Penn Estabrook were to work on a plan to determine commercial access needs.
- b) David Keeley will prepare a memo for the Governor requesting the State Planning Office to oversee the improved coordination of State access programs.
- c) The State Planning Office will send to members the summary report of the access subcommittee deliberations.

2. Coastal Program Work Elements

David Keeley briefed members on the status of State level projects selected by the CAC for funding in May, 1985. Karen Massey briefed members on the Council's Data Management task that is funded by the Coastal Program. They have met once and are working with Central Computer Services on the project. Karen agreed to circulate minutes of their October meeting to committee members.

## Minutes (cont.)

### Discussion Items

#### 1. Public Use of the Intertidal Area

Karen Massey provided an overview of the legislation and what it was intended to accomplish. Phil Ahrens briefed members on the status of the Moody Beach lawsuit. He then commented on the bill and raised questions concerning:

- whether a resolve would be more appropriate;
- the status of the intertidal access bill submitted last session and held over for this session;
- whether clarification of public trust would be injurious to other common law purposes;
- whether this bill may be considered a taking; and
- what the outcome of this bill, if submitted, would be.

Mike Healey, representing the Town of Wells in the Moody Beach case, also questioned the value of the proposed Act and felt this was not an appropriate time to consider such an Act.

After considerable discussion the committee agreed that Karen and Phil would jointly draft a resolve that would accommodate the concerns of each office. It would then be submitted to the Governor with a memo explaining the costs and benefits of pursuing this resolve. The Governor would then make a decision on how to proceed.

#### 2. Public Access Protection Fund

John DeIvecchio provided an overview of the legislation. Considerable discussion focused on how well access needs along the coast are documented and whether this fund should support development and maintenance activities related to coastal access projects.

It was agreed the bill will be modified to incorporate the following:

- o the funding source will be a non-lapsing 5 year bond issue;
- o the amount will be several million and the SPO will consider in greater detail whether a trust is appropriate and politically feasible;
- o the emphasis of the bill is on salt water shoreline acquisition with a portion available for development;
- o the bill will support small scale, low intensity projects (examples mentioned were rights-of-way to the water, small waterfront parks, etc.);
- o if a trust is established the return could be used to support maintenance items.

The staff was directed to revise the bill accordingly, incorporating necessary changes to convert it from an appropriation to a bond issue, and to send a final draft out to Committee members before October 31st.

John Walker suggested the staff meet with a few local officials dealing with public access issues to get their input on the bill.

#### 3. Coastal Management Policies

David Keeley provided a overview of the legislation and Dick Barringer explained the financial item will be deleted in the final draft.

Spencer Apollonio suggested we broaden the bill to incorporate the near shore environment and marine opportunities in the Gulf of Maine. Specifically to include the coordinated research program being developed by ARGO Maine.

Penn Estabrook and David Keeley were instructed to evaluate how this suggestion could be accommodated in the legislation.

John Walker suggested the SPO meet with the Maine Municipal Association to review the legislation and to get their input. The committee agreed this was desirable.

Mark Sullivan suggested including a reporting procedure to require the SPO to report to the Governor on the status of implementing the coastal policies. After considerable discussion the suggestion was accepted.

Dick Barringer requested all agencies to provide comments soon so that they may be incorporated into the final draft which is due October 31st at the Governor's Office.

#### 4. Other Business

John Walker inquired about progress on the Cumulative Impact Study. It was agreed the CAC would be briefed at their next meeting.

Adjournment - the meeting adjourned at 12:15 p.m.

dk/aal/19b

SUMMARY OF GULF OF MAINE WORKSHOP  
20-22 August, 1985, Portland, Maine

#### GENERAL

Over 140 persons registered for the 3-day workshop which opened with four invited plenary session speakers on Tuesday. The contributed sessions consisted of talks and poster presentations which were presented on Wednesday and Thursday.

The contributed talks were divided into the broad categories of Geology, Physical Oceanography, Water Column Research, Benthic Research, and Fisheries/General Research. The poster sessions were available for viewing throughout the workshop.

The workshop concluded with a round-table panel discussion of the highlights of the meeting, impressions on where significant gaps in our knowledge exist, and the identification of future research needs.

A complete list of the participants in the workshop, their addresses and institutional affiliations, as well as the titles and abstracts of the plenary session talks and the contributed oral and poster presentations are attached. In this document we summarize the contributed presentations and the panel discussion, and highlight some themes that developed during the meeting.

#### CONTRIBUTED PAPERS

The geologically-oriented papers focused on the geological history of the Gulf of Maine. Particular emphasis was placed on the geologically recent glacial movements and their past and predicted future sea level impacts along the Maine coast. The importance of the effect of geologically-determined substrates on present distribution of plant and animal communities was a common theme. The potential for mapping of these substrates in deeper waters using side-scan sonar was discussed. Relatively little modern process work in geology was discussed, the one exception being a paper on sedimentation processes in estuarine intertidal areas.

The physical oceanographic papers summarized the recent work and studies presently underway or proposed for the near future. Two speakers discussed syntheses of data dealing with the large scale non-tidal circulation in the Gulf, one characterized the dynamics of Gulf bottom waters, and another presented very recent results of bottom water current meter measurements. One recurrent theme among many of these presentations was the potential importance and variability of slope water intrusions into the Gulf. One paper dealt with the variability of river discharge into the Gulf, which may have an impact on coastal mixing processes. Several papers addressed vertical movement of water; these included a reevaluation of the influence of the Fundy power dams on changes in Gulf of Maine tides, a new method for calculation of wave spectra, and the use of sea level changes in determining circulation patterns.

The water column papers covered a broad spectrum of topics which tended to focus on the production of organic matter by phytoplankton and its subsequent incorporation into pelagic food chains. The importance of vertical mixing for the delivery of necessary nutrients at times of adequate insolation for primary production was stressed, and its effects on both overall plankton standing stocks and on particular species such as red tide organisms was described. Zones of high chlorophyll are concentrated in coastal areas, and are related to, but not perfectly associated with, zones of upwelled, cold, deeper waters. Factors affecting productivity of phycoerythrin pico-plankton relative to that of larger phytoplankton were presented; it appears probable that this competition is also controlled by light and nutrient delivery. A discussion of the turbidity characteristics of the various water masses in the Gulf showed the potential for nephelometry to provide valuable input to study of plankton distribution, water mass transport and suspended particulate transport. A new method for estimating secondary production indicates that food limitation for zooplankton dominates during the year. Distributions and grazing activities of midwater and benthic boundary layer planktonic heterotrophs were discussed in three papers. A preliminary attempt was made to assess the controlling factors governing the concentration of dissolved organic carbon in the water column. Several papers addressed the possibilities available for comprehensive data collections, using newly developed technologies; these include satellite imagery, moored sampling devices, and advanced acoustic devices. One paper discussed the advantages of the Gulf of Maine as an optimal site for the investigation of surface slicks, as barriers to satellite remote sensing and as indicators of physical and chemical processes.

The benthic session covered both primary and secondary production processes, with a logical emphasis on the latter, as well as factors mediating the coupling of these two themes. Two papers demonstrated that the enormous convolution of the Maine shoreline makes possible a degree of macrophyte production that rivals that of phytoplankton in the coastal zone. Another series of papers showed that invertebrate population densities, sedimentary organic matter accumulation and nutritional quality, and nutrient regeneration rates and subsequent irrigation of nutrient-rich pore waters to the overlying water column all had distributions that responded very closely to the previously described patterns of water column primary production. Water depth was shown to be an important modifying factor in these distributions. Two papers described the types of microbial activities that account for the bulk of sedimentary metabolism. Two papers discussed the roles of biological interactions and storm activity in controlling rocky bottom plant and animal communities. Several papers addressed the controls on growth, pathology, distribution, and movement of several invertebrate species, including sea pens, scallops, polychaetes, and clams. A large collaborative study on lobster migration, using tags, was described. A most fascinating study of snail shell evolution over a period of some decades was presented.

Fisheries were addressed by an amalgam of studies on higher trophic level organisms in the Gulf. They included an entire ecosystem model of how Fundy tidal power development might affect fisheries production, a model of fish production based upon measured values of primary production and calculated secondary production, an evaluation of tidal pools as nursery grounds for fishes, and

several papers on applied fisheries studies. These included two papers on herring, one summarizing recent tagging efforts and another which synthesized over 20 years of work to arrive at an hypothesis of herring production limitations in the Gulf. One paper discussed an apparent paradox in the distributions of larval and adult cod off the Maine coast, and another served to emphasize the magnitude of fisheries landings which are unrecorded and wasted because these fish are of no commercial value and hence discarded at sea. Factors affecting the potential of the Maine coast for mussel culture were described. One talk surveyed current marine mammal research in the Gulf.

#### PANEL DISCUSSION

The round-table panel discussions were opened by brief statements from the panel members as to the critical research needs presently outstanding, as they perceived them. Responses were overwhelmingly in agreement as to our lack of an adequate scientific understanding of the Gulf, particularly as to how each panelist felt this lack of knowledge hindered his own research or administrative responsibilities. Plans were made for more long-term numerical data for modelling purposes, for detailed bathymetric charts, for measures of short-term water motions such as can be revealed through the deployment of moored current meters, for sediment budgets, and for more work to be done on natural gas deposits beneath the sea floor. The concept of "top down" modelling was suggested to be the most cost-effective approach to understanding important ecological questions in the Gulf of Maine. This led to a discussion of the lack of modern instrumentation being applied to the study of the Gulf such as moored samplers and current meters. There are also gaps in appropriate expertise concerning matters such as air-sea interactions. It was pointed out that these technologies and personnel will be necessary if we are to grasp the significance of such apparently important processes as the flow of slope water into the Gulf.

#### SCIENTIFIC HIGHLIGHTS

Much of the research discussed throughout the meeting was known, at least in part, by many already actively studying these waters. Still, there were some revelations. These are briefly discussed in the following paragraphs.

It appeared that the influence of slope water flow through the Northeast Channel is assuming new significance to both the physical and biological oceanographers. These flows are poorly understood at present but they affect not only the mean circulation within the Gulf, but the nutrient budget, depth of the pycnocline, and microbial dynamics, to cite just a few examples. An interdisciplinary research effort is certainly needed at this time.

Production and subsequent export of nearshore macroalgal detritus may make a significant contribution to the overall productivity of the coastal benthic environment. This hypothesis requires better productivity measurements than have been reported to date in order to be properly tested. The factors which control transport of particulate matter in general, macrophyte detritus and

suspended sediment, from the shore across the banks to the basins need to be examined.

The importance of the bottom and midwater nepheloid layers have also assumed new significance. These apparently ubiquitous phenomena may support as yet poorly understood biological communities - from microbes to macroplankton - and may be important to the dynamics of recently introduced pollutants such as PCB's. Along these same lines, there appears to be a close association between these layers and gelatinous zooplankton, which are reported via submersible observations to reach incredible densities.

As with virtually every other region of the world ocean, the importance of picoplankton is becoming recognized in the Gulf of Maine. These organisms include heterotrophic bacteria as well as eucaryotic and procaryotic primary producers and their importance in the Gulf must be assessed if we are to make any meaningful measures of primary production.

Though not brought out during the workshop, we will need to assess the role of marine birds on production estimates. These consumers are assigned great importance to the food chain dynamics in other parts of the world, yet their influence in the Gulf of Maine remains unknown.

Factors affecting the transfer of food from the water column to the benthos need study. The fishery in the Gulf of Maine is largely one of benthic and demersal nature. The roles of planktic heterotrophic efficiency, transportability of macrophytic debris, and roles of filter feeders in capturing food from the water column need to be addressed.

## COASTAL WETLANDS

Salt marshes are ecologically as well as economically important areas. These highly productive systems provide a generous flow of nutrients to mudflats and the ocean. Salt marshes are important spawning and nursery areas for fish and shellfish. They serve as a natural filter for organic pollutants and heavy metals and provide important wildlife habitat.

In Maine, there are about 6,000 salt marshes. A quarter of these (1,616) are less than .01 km<sup>2</sup> (get acreage value) (Kelley et al. 1984). Maine salt marshes are dissimilar from each other and differ from other salt marshes along the Atlantic Coast. The root of these differences lies in the varying tidal amplitude from south to north, differential crustal warping along the coast (some areas are sinking faster than others), the different sediment load each receives and man's use and impacts.

The Maine coast is a series of embayments dominated by mudflats (48.5%). Marsh and ledge comprise 17.7% and 16.6%, respectively. Boulder beaches, coarse-grained flats and \_\_\_\_\_ make up the remaining 18% (Kelley et al. 1984).

Kelley et al. (1984) have done extensive surveys of the Maine Coast and this discussion, summarized in Table 1, is adapted from their work. They classified the coast into four regions based on salt marsh characteristics (see figure 1).

Region 1 extends from Kittery to Cape Elizabeth, a distance of 313 miles. It is characterized by streams protected by barrier spits. Marshlands dominate (64%). The relatively low tidal range (2m) and extensive marshes do not leave room for extensive flats. Mudflats cover 18% of the area while ledges constitute 4%.

The low elevation of the upland and shallow offshore depths translate into wide marshes and low relief. The average rise 300 feet from mean high water is 24 feet. The marshes are 99% salt hay, meaning they are of relatively old age in their evolution. Extensive peat deposits underlie these marshes.

Region 2, the south central coast, extends from Cape Elizabeth to the St. George peninsula, covering over 1017 miles, or 31% of the coast. This region is characterized by northeast-oriented peninsulas with intervening deep, narrow estuaries. Flats, especially mudflats become more prevalent (54%), with marshes only common at the head of some estuaries. Ledges (13%) are found only at the tips of peninsulas and on islands. Beaches, predominantly fine sand, constitute only 5% of the area and are concentrated near the mouth of the Kennebec River. The resistant bedrock of the peninsulas gives this region more relief along the shoreline.

Region 3 encompasses Penobscot Bay and extends north to Machias Bay, a distance of 1530 miles (47% of Maine's coast). It is characterized by broad estuaries containing numerous resistant granitic islands. Barrier spits are uncommon, replaced by coarse-grained pocket beaches. Marshes commonly are narrow fringing deposits on the margins of estuaries and at the heads of river embayments. The shoreline is dominated by mudflats (59%), with ledges (12%) and



# YORK COUNTY

Town	Acres				Total
	Tide Flat	Salt Marsh <sup>2</sup>	Other Wetlands	Upland	
South Berwick	38	32	308	20,679	21,057
Ellet	255	163	403	12,192	13,013
Kittery	568	324	154	10,822	11,868
York	83	470	1,131	34,257	35,941
Wells	200	1,725	395	37,297	39,617
Kennebunk	57	276	355	22,365	23,032
Arundel	0	0	76	15,374	15,450
Kennebunkport	340	804	101	12,474	13,719
Biddeford	0	157	239	19,311	19,707
Saco	0	304	446	24,081	24,831
Old Orchard Beach	0	0	35	4,768	4,803
<b>TOTAL</b>	<b>1,541</b>	<b>4,254</b>	<b>3,623</b>	<b>213,620</b>	<b>223,038</b>

# CUMBERLAND COUNTY

Scarboro	220	3,481	1,516	26,133	31,350
Cape Elizabeth	0	0	258	9,079	9,337
S. Portland	483	0	88	7,702	8,273
Portland	725	86	32	11,384	12,254
Falmouth	896	90	117	18,758	19,851
Cumberland	229	0	228	14,408	14,865
Yarmouth	83	21	0	7,903	8,007
Freeport	1,375	283	106	21,963	23,727
Brunswick	1,157	317	2,009	28,343	31,826
Harpwell	1,917	50	42	12,015	14,024
<b>TOTAL</b>	<b>7,112</b>	<b>4,328</b>	<b>4,396</b>	<b>137,688</b>	<b>173,524</b>

# SACADAHOC COUNTY

West Bath	170	0	29	7,691	7,890
Bath	40	0	402	5,858	6,300
Phillipsburg	1,276	885	775	16,879	19,813
Topsham	0	0	840	20,404	21,244
Arrowsic	82	225	199	5,158	5,664
Bowdoinham	0	0	1,092	22,553	23,645
Perkins Twp.	0	0	0	1,699	1,699
Richmond	36	0	537	19,139	19,712
Woolwich	703	0	2,677	20,687	24,067
Georgetown	900	1,372	154	10,129	12,555
<b>TOTAL</b>	<b>3,207</b>	<b>2,482</b>	<b>15,135</b>	<b>130,197</b>	<b>142,589</b>

marshes (8%) of secondary importance. Extensive marshes have not formed in region 3 partly because of the high bedrock relief and the local paucity of muddy rivers. Coarse-grained beaches and flats are more prevalent here than elsewhere on the coast mostly due to bluff erosion.

The northeast compartment, Region 4, is a nearly straight, high-cliffed coast harboring protected estuaries. Region 4 extends from Machias Bay to Calais, a distance of 42.5 miles. The tidal range varies from 4.3m to 6.5m. The coast consists of a ledge dominated outer coast (24%) and mudflat dominated macrotidal estuaries. The marshes are relatively young, evidenced by the high proportion of *Spartina alterniflora* (49%), and in some cases appear to represent former freshwater bogs recently intersected by high tide. Otherwise, marshes only exist as eroding fringes along sheltered estuarine coves. Marshes comprise only 9% of the shoreline. This region has the worst relief.

Table 1

Area	Total Marsh (km <sup>2</sup> )	per km. of coast	% of area		
			marsh	ledge	flat

1. Arcuate Bays 26.44 .052 64 4 18
2. Indented Embayments 27.35 .0167 26 13 54
3. Island Bay Complex 20.57 .0083 8 12 66
4. Clifed Shoreline 4.51 .0066 9 24 58

(Source: adapted from Kelley et al., 1984)

Table 2 is a town by town summary of tidal flats, salt marsh and fresh water wetlands done by IF&W in 1974.

KENNEBEC COUNTY									
Augusta	Negligible	0	3,077	33,630	36,707				
Hallowell	Negligible	0	108	3,582	3,690				
Farmingdale	Negligible	0	495	6,769	7,264				
Gardiner	8	0	781	9,433	10,222				
Chelsea	Negligible	0	692	11,824	12,516				
Randolph	15	0	30	1,288	1,333				
Pittston	74	0	386	20,435	20,895				
TOTAL	97	0	5,569	86,961	92,627				

LINCOLN COUNTY									
Dresden	88	0	1,445	19,090	20,623				
Wiscasset	547	0	250	15,677	16,474				
Westport	103	81	73	5,439	5,696				
Alna	0	0	221	13,411	13,632				
Newcastle	403	826	1,185	17,543	19,957				
Edgecomb	73	26	208	11,598	11,893				
Boothbay	733	0	376	11,978	13,089				
Monhegan Pk.	0	0	0	500	500				
Waldoboro	1,341	0	2,282	44,373	47,996				
Boothbay Harbor	0	0	105	3,515	3,620				
Southport	0	0	29	3,022	3,051				
Nobleboro	181	0	6,446	8,574	15,201				
Damariscotta	298	0	742	7,893	8,933				
S. Bristol	327	0	56	7,464	7,847				
Bristol	265	0	744	21,745	22,754				
Bremen	368	0	696	9,419	10,483				
TOTAL	4,727	933	14,860	201,240	221,749				

KNOX COUNTY									
North Haven	263	Negligible	52	7,422	7,474				
Vinal Haven	565	Negligible	272	13,900	14,172				
Camden	61	Negligible	1,220	11,334	12,554				
Rockport	89	Negligible	1,069	15,532	14,601				
Rockland	104	Negligible	483	7,816	8,299				
Ox's Head	455	Negligible	1,215	5,682	5,682				
Warren	0	20	0	30,509	31,744				
Thomaston	140	Negligible	Negligible	7,247	7,247				
S. Thomaston	1,567	273	Negligible	8,561	8,834				
Cushing	630	Negligible	223	13,055	13,278				
Friendship	391	Negligible	393	7,762	8,153				
St. George	979	Negligible	Negligible	13,855	14,834				
Ile au Haut	28	0	182						
TOTAL	5,214	293	5,109	140,675	146,872				

WALDO COUNTY									
Frankfort	201	325	0	300	15,374				15,999
Prospect	291	0	0	75	11,627				11,702
Stockton Springs	140	0	0	321	12,278				12,599
Searsport	326	0	0	511	18,343				18,854
Belfast	201	0	0	986	20,599				21,585
Northport	147	0	0	402	15,252				15,654
Isleboro	898	0	0	250	8,819				9,069
Lincolnville	76	Negligible	0	1,778	23,279				
Winterport	283	110	447		22,538				
TOTAL									

PENOBSCOT COUNTY									
Bangor	Negligible	0	513	21,622	22,135				
Brewer	Negligible	0	88	9,673	9,761				
Hamden	Negligible	0	492	24,066	24,515				
Orrington	100	0	1,516	15,565	17,081				
Veazie									
TOTAL	100	0	2,566	70,926	73,492				

Brooksville	718 <sup>3</sup>	41	1,186	20,404	21,631				
Castine	233	0	93	4,728	4,821				
Penobscot	455	13	625	25,862	26,500				
Orland	0	0	3,829	28,852	32,681				
Verona	249	0	0	3,998	3,998				
Bucksport	197	0	1,628	32,874	34,502				
Ellsworth	26	0	6,675	16,772	23,447				
Blue Hill	307	0	709	35,592	36,301				
Surry	313	0	1,219	23,905	25,124				
Brooklin	281	0	176	11,707	11,883				
Sedgewick	74	19	699	16,998	17,676				
Deer Isle	1,490	0	425	18,135	18,560				
Stonington	504	26	30	5,410	5,482				
Trenton	622	0	190	12,339	12,529				
Bar Harbor	653	30	1,716	26,719	28,465				
Mt. Desert	439	24	1,644	24,031	25,699				
Tremont	328	20	46	10,263	10,329				
Swan's Island	170	0	184	6,934	7,118				
Frenchboro					1,539				
S.W. Harbor	115	175	0	8,709	8,884				
Cranberry Isles	423	33	0	2,010	2,043				
Hancock	679	45	0	19,960	20,005				
Lanoka	1,407	56	35	12,762	12,853				
Franklin	200	112	1,503	23,445	25,061				
Sullivan	204	0	1,188	16,740	17,928				
Sorrento	157	NA	NA	30,746	2,580				
Gouldsboro	1,066	157	1,322	7,899	8,031				
Winter Harbor	84	0	142						

T7 SD	0	0	220	10,663	10,764
T8 SD	0	0	101	4,996	6,186
T9 SD	0	0	1,130	23,085	27,035
T10 SD	0	0	3,950	27,311	29,100
Steuben	1,178	126	485	28,339	28,888
Cherryfield	0	0	145	13,546	14,557
Wilibridge	1,754	548	20	11,503	28,900
Harrington	2,770	384	0	26,208	23,323
Centerville	0	0	2,692	367	23,794
Columbia	0	0	149	13,594	15,566
Columbia Falls	0	0	1,049	24,295	24,168
Addison	2,261	589	598	14,032	7,529
Jonesport	307	19	0	3,555	8,960
Beals Island	209	0	0	23,137	9,344
Jonesboro	842	30	159	6,724	9,172
Rogue Bluffs	652	153	0	8,540	14,212
Marshfield	0	0	420	12,565	28,942
Whitneyville	0	0	18	22,452	14,272
Machias	373	983	275	14,272	35,553
Machiasport	1,339	109	199	30,043	29,293
East Machias	545	169	5,776	27,435	18,734
Marion	0	0	0	17,993	23,937
Whiting	294	0	3,196	20,932	25,274
Cutler	1,015	54	789	9,312	9,614
Thescott Twp.	1,109	32	0	17,098	18,784
Lubec	2,868	133	4	19,145	22,104
Edmonds	543	33	0	2,237	2,911
Dennysville	1,053	27	165	17,108	19,151
Pembroke	1,209	35	606	19,404	23,699
Perry	574	0	1,715	0	0
Eastport	205	0	0	0	0
Robbinston	213	0	1,838	0	0
Calais	0	0	4,082	0	0
<b>TOTAL</b>	<b>22,130</b>	<b>3,424</b>	<b>24,764</b>	<b>494,701</b>	<b>545,019</b>

1 Maine Dept. of Inland Fisheries and Wildlife.

2 Tide flat acreage not included in total.

3 Includes salt marsh and salt meadow.

Coastal wetlands are vulnerable both to natural loss and human

perturbations. Marshland is eroded as the sea level rises. The ocean has risen X inches in the past century. In Maine, the high tidal amplitude and sinking coastline exacerbate the already rising sea level. Figure 3 illustrates the rate at which the Maine coast is sinking, especially in eastern Maine where it averages 9 mm per year. Approximately 5% of the coastal salt marshes are vulnerable to natural loss. These are concentrated in the northeast region (Kelley pers. comm. 11/2/84).

In the past, coastal wetlands were viewed chiefly as potential sites for development. Between the 1950s and mid-1970s wetland losses nationwide were heavy (Tiner, 1984). Although no records exist, the American Geographical Society estimated that between 1954 and 1964, 1000 acres of the 15,300 acres of important estuary habitat in Maine were lost to fill. The USFWS has estimated that 50% of this loss was in miscellaneous fill and 50% in dredging for marinas and channels (LUC, 1977).

In 1968, Maine enacted an Alteration of Coastal Wetlands Law, requiring permits for dredging or draining coastal wetlands. The applicant must demonstrate that the proposed activity will not unreasonably interfere or affect the environment. Regulations were promulgated in 1979. Since that time, 203 filling permits have been granted, at the rate of about 12 per year (see figure 4). The Legislation regulating filling changed in 1972 and 1979 and could account for much of the variation

The rate of permit approval in Maine appears to be declining but it is not a significant trend. However, the characteristics of permits have changed.

Rather than large scale proposals for filling marshlands, most filling proposals are now for small areas within busy harbors (T. Brown, DEP, pers. comm., Oct., 1984).

Table 2 and figures presents filling data on a regional basis. 26% of all permits originate in York County, 11% in the town of Wells alone.

County	Filling permits since 1967	Examples	Dredging
York	57	Wells 22	35
Cumberland	42	South Portland 12 Portland 11 Harpwell 10	35
Kennebec	1		11
Sagadahoc	10		0
Lincoln	28	Boothbay Harbor 11	5
Knox	18		30
Waldo	6		10
Penobscot	3		0
Hancock	26		26
Washington	10		8
Total	201		151

Source: SFO

# References

- Anderson, Walter et al., 1984. Crustal Warping in Coastal Maine. Maine Geological Service.
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- Timar, Ralph, 1984. Wetlands of the United States: Current Status and Recent Trends. USFWS.
- Land Use Consultants (LUC), 1977. Cumulative Impact of Incremental Development on the Maine Coast, working paper prepared for the Maine DEP and Committee on Coastal Development and Conservation.
- Mini-Symposium on Wetland Protection in Maine, in Proceedings: National Wetlands Assessment Symposium, June 17-20, 1985, Portland, Maine, National Association of State Wetland Managers, pp. 300-324.

APPROVED CHARTER  
APR 25 '86 796  
BY GOVERNOR REPUBLICANS

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SIX

S.P. 855 - L.D. 2167

AN ACT to Enhance the Sound Use and  
Management of Maine's Coastal  
Resources.

Be it enacted by the People of the State of Maine as  
follows:

PART A

Sec. 1. 5 MRS 3315 is enacted to read:

§3315. List of Heritage Coastal Areas

The State Planning Office shall develop and maintain the official list of Heritage Coastal Areas.

1. Definition. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Heritage Coastal Areas" means areas containing an assemblage of geological, botanical, zoological, historical or scenic features of exceptional state or national significance.

2. Guidelines for Identifying Heritage Coastal Areas. The State Planning Office, in consultation with the Maine Historic Preservation Commission, shall review existing reports and documents on coastal natural, historical and scenic areas in order to document Heritage Coastal Areas. The State Planning Office shall also undertake the necessary studies and inventories to document the scenic and natural values of candidate areas.

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When evaluating candidate Heritage Coastal Areas, the following guidelines shall be considered:

A. Areas eligible for or listed on the Register of Critical Areas; and

B. Areas eligible for or listed on the National Register of Historic Places.

Nomination forms for each Heritage Coastal Area shall contain a description of the area and its significance, its size and location and the names of the landowners of the features within the area.

3. Municipal and landowner consultation. No area may be included on the list of Heritage Coastal Areas until the State Planning Office notifies the landowner of the features and officials of the municipality where the area is located at least 60 days prior to designation.

4. Designation of Heritage Coastal Areas. The Director of the State Planning Office, with the advice and approval of the Critical Areas Advisory Board, shall designate Heritage Coastal Areas subject to review by the joint standing committee of the Legislature having jurisdiction over energy and natural resources.

The designation of Heritage Coastal Areas officially identifies and documents assemblages of exceptional natural, historical or scenic areas on the coast that merit special attention for conservation.

5. Protection of features within Heritage Coastal Areas. The features identified within Heritage Coastal Areas shall be protected on a voluntary basis. Government agencies at all levels shall consider the importance of protecting the character of Heritage Coastal Areas in land use control and other actions which they take.

Sec. 2. 30 MRS 4956, sub-§3, as amended by PL 1983, c. 458, §12, is further amended to read:

3. Guidelines. When promulgating any subdivision regulations and when reviewing any subdivision for

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approval, the planning board, agency or office, or the municipal officers, shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

- A. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- F. Will provide for adequate sewage waste disposal;
- G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage, if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- J. Is in conformance with a duly adopted subdi-

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vision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any; and

K. The subdivider has adequate financial and technical capacity to meet the above stated standards;

L. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Furthermore, when lots in a subdivision have frontage on an outstanding river segment, as defined in subsection 1-A, the proposed subdivision plan shall require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreline strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore. These frontage and setback provisions shall not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 12, section 4813, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed shall be based on a finding that, as of the effective date of this Act, existing development meets the requirements of subsection 17.

M. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and

N. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The

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proposed subdivision plan shall include a condition of plat approval requiring that principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement at least one foot above the 100-year flood elevation.

Sec. 3. 30 MRSA §4961, sub-§1, as amended by PL 1981, c. 598, §1, is repealed and the following enacted in its place:

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Comprehensive plan" means a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the municipality with respect to its population, housing, economics, social patterns, land use, water resources and their use, transportation facilities and public facilities prepared by the municipal planning board, agency or office. The plan, being as much a process as a document capable of distribution, may at successive stages consist of data collected, preliminary plans, alternative action proposals and, finally, a comprehensive plan to be adopted. In its final stages, it may consist of a series of subsidiary but interrelated plans such as, but not limited to, a water and sewerage system plan, a land use plan, a shoreland management plan that considers functionally water-dependent uses and public access to and use of the shoreline, a community facilities plan, a transportation plan, an urban renewal or rehabilitation plan, an air or water pollution control plan and a park and open space plan. The comprehensive plan shall include recommendations for plan execution and implementation such as, but not limited to, a capital improvements program, renewal and rehabilitation programs, land use control ordinances and building, safety and housing codes. The comprehensive plan shall include mechanisms which will ensure continual data collection, reevaluation in light of new alternatives and revision. The comprehensive plan may include planning techniques such

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as, but not limited to, planned unit development, site plan approval, transfer of development rights, open space zoning, clustered development, conditional zoning, contract zoning and zoning to protect access to direct sunlight for solar energy use.

B. "Functionally water-dependent uses" means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which therefore cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, storage and retail and wholesale marketing facilities, dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

Sec. 4. 37-B MRSA §744, sub-§2, as enacted by PL 1983, c. 460, §3, is repealed.

Sec. 5. 37-B MRSA §744, sub-§2-A is enacted to read:

2-A. Assistance to local governmental units. Assistance to local governmental units shall be governed as follows.

A. Whenever the President of the United States declares that a major disaster exists in the State, the Governor may:

(1) Apply for a public assistance grant from the Federal Government under Public Law 93-288 on behalf of both the State and local governmental units for the purposes of repairing or replacing publicly owned facilities within the disaster area or relocating public facilities outside of the disaster

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area:

- (2) Obligate state financial resources, as a condition for receiving such a federal grant up to, but not in excess of, 25% of the total public assistance requested; and
- (3) Enter into an agreement with the affected local governmental units to obligate local financial resources up to, but not in excess of, 10% of the total cost of damage to local public facilities, provided that the local share shall not exceed 10% of total local annual operating budget, exclusive of educational budgets.

B. If the President of the United States declares that a major disaster exists in the State, the Governor may:

- (1) Apply for a loan from the Federal Government on behalf of a unit of local government if he determines that the unit will suffer a substantial loss of tax and other revenues as a result of a major disaster and has demonstrated a need for financial assistance to perform its governmental functions;
- (2) Receive and disburse the proceeds of any approved loan to an applicant local government;
- (3) Determine the amount needed by any applicant local government to restore or resume its governmental functions and certify the amount to the Federal Government, provided that no application amount may exceed 25% of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs; and
- (4) Recommend to the Federal Government, based upon his review, the cancellation of all or any part of repayment when, after 3 full fiscal years following the major disaster, the revenues of the local government

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are insufficient to meet its operating expenses, including additional municipal expenses related to the disaster.

Sec. 6. 38 MRSA §436, sub-§1, as reallocated by PL 1985, c. 481, Pt. A, §24, is repealed.

Sec. 7. 38 MRSA §436, sub-§§1-A to 1-F are enacted to read:

1-A. Commercial fishing activities. "Commercial fishing activities" includes activities directly related to commercial fishing and those commercial activities commonly associated with or supportive to commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other electronic devices commonly used on boats.

1-B. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with a density of at least one principal structure per 2 acres.

1-C. Floodway. "Floodway" means the channel of a river or other water course and the adjacent land areas that must be reserved to allow for the discharge of a 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood by more than one foot.

1-D. Functionally water-dependent uses. "Functionally water-dependent uses" means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site and uses which primarily provide general

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Public access to marine or tidal waters.

1-E. Maritime activities. "Maritime activities" includes the construction, repair, storage, loading and unloading of boats, chancery and other commercial activities designed and intended to facilitate maritime trade.

1-F. Pond. "Pond" means any inland body of water which has a surface area in excess of 10 acres, except where the body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

Sec. 8. 38 MRS 440, as reallocated by PL 1985, c. 481, Pt. A, §28, is amended by adding at the end the following new paragraphs:

Zoning ordinances adopted or amended pursuant to this section shall designate as a resource protection zone or its equivalent as defined in the guidelines adopted pursuant to section 442, all areas within the floodway of the 100-year flood plain along rivers and in the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps. This provision does not apply to areas zoned for general development or its equivalent, as defined in the guidelines adopted pursuant to section 442, as of the effective date of this paragraph, or within areas designated by ordinances as densely developed. The determination of which areas are densely developed shall be based on a finding that, as of the effective date of this paragraph, existing development meets the definition in section 436, subsection 1-B.

All communities shall designate floodway areas, as set out in this section, as resource protection zones as of the effective date of a community's entry into the regular program of the National Flood Insurance Program or July 1, 1987, whichever comes later.

In those areas that are within the floodway, as delineated on the Federal Emergency Management Agen-

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cy's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, all proposed activities which are permitted within the shoreland area must be shown not to increase the 100-year flood elevation. In addition, all structures built in the floodway shall have their lowest floor, including the basement, one foot above the 100-year flood elevation.

Sec. 9. 38 MRS 440-A is enacted to read:

§440-A. Public access

In addition to controls required in this chapter, municipalities may extend or adopt zoning and subdivision controls to protect any public rights for physical and visual access to the shoreline.

Zoning ordinances adopted or extended pursuant to this section shall be pursuant to and consistent with a comprehensive plan.

Sec. 10. 38 MRS 447 is enacted to read:

§447. Functionally water-dependent use zones

Municipalities are encouraged to give preference, when appropriate, to functionally water-dependent uses and may extend zoning controls to accomplish this.

A municipality may, within coastal shoreland areas, adopt zoning ordinances for functionally water-dependent uses. Municipalities may establish districts within these zones to give preference to commercial fishing and other maritime activities.

In creating such a zone, a municipality shall consider the demand for and availability of shorefront property for functionally water-dependent uses.

Zoning ordinances adopted or extended pursuant to this section shall be pursuant to and consistent with a comprehensive plan.

Sec. 11. 38 MRS c.c. 19 and 21 are enacted to read:

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## CHAPTER 19

### COASTAL MANAGEMENT POLICIES

§1901. Findings and declaration of coastal management policies

The Legislature finds that the Maine coast is an asset of immeasurable value to the people of the State and the nation, and there is a state interest in the conservation, beneficial use and effective management of the coast's resources; that development of the coastal area is increasing rapidly and that this development poses a significant threat to the resources of the coast and to the traditional livelihoods of its residents; that the United States Congress has recognized the importance of coastal resources through the passage of the United States Coastal Zone Management Act of 1972 and that in 1978 Maine initiated a coastal management program in accordance with this Act which continues to be of high priority; and that there are special needs in the conservation and development of the State's coastal resources that require a statement of legislative policy and intent with respect to state and local actions affecting the Maine coast.

The Legislature declares that the well-being of the citizens of this State depends on striking a carefully considered and well reasoned balance among the competing uses of the State's coastal area. The Legislature directs that state and local agencies and federal agencies as required by the United States Coastal Zone Management Act of 1972, PL 92-583, with responsibility for regulating, planning, developing or managing coastal resources, shall conduct their activities affecting the coastal area consistent with the following policies to:

1. Port and harbor development. Promote the maintenance, development and revitalization of the State's ports and harbors for fishing, transportation and recreation;
2. Marine resource management. Manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of ma-

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rine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters and to enhance the economic value of the State's renewable marine resources;

3. Shoreline management and access. Support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources;

4. Hazard area development. Discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety;

5. State and local cooperative management. Encourage and support cooperative state and municipal management of coastal resources;

6. Scenic and natural areas protection. Protect and manage critical habitat and natural areas of state and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs;

7. Recreation and tourism. Expand the opportunities for outdoor recreation and encourage appropriate coastal tourist activities and development;

8. Water quality. Restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses; and

9. Air quality. Restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast.

§1902. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

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1. Coastal area. The "coastal area" encompasses all coastal municipalities and unorganized townships on tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of coastal town lines and the seaward boundary is the outer limit of the United States territorial sea.

2. Coastal management. "Coastal management" means the planning, development, conservation and regulation of coastal resource use by Federal, state, regional and local governments.

3. Coastal resources. "Coastal resources" means the coastal waters of the State and adjacent shorelands, their natural resources and related marine and wildlife habitat that together form an integrated terrestrial, estuarine and marine ecosystem.

#### §1803. Report

The State Planning Office shall provide a report no later than December 1, 1988, to the Legislature detailing the status of policy accomplishments pursuant to this chapter. As a part of this report, the Department of Environmental Protection and the Department of Conservation shall prepare reports on implementation of this chapter for which they are responsible.

### CHAPTER 21

#### COASTAL BARRIER RESOURCES SYSTEM

##### §1901. Findings and declaration of policy

The Legislature finds that Maine's coastal barriers and the adjacent wetlands, marshes, estuaries, inlets and nearshore waters contain resources of extraordinary scenic, scientific, recreational, natural, historic, archeological and economic importance that may be irretrievably damaged and lost due to development on and adjacent to those barriers. That Maine's coastal barriers provide habitats for migratory birds and other wildlife and habitats which are essential spawning, nursery, nesting and feeding areas for commercially and recreationally important species of finfish and shellfish, as well as other

aquatic organisms; that Maine's coastal barriers serve as natural storm protective buffers and are generally unsuitable for development because they are vulnerable to hurricane and other storm damage and because natural shoreline recession and the movement of unstable sediments undermine manmade structures; and that the United States Congress has recognized the importance of coastal barriers through the United States Coastal Barrier Resources Act of 1982, United States Code, Title 16, Section 3509. Established a detailed process to identify coastal barriers and prohibited the expenditure of federal funds that support activities incompatible with the ability of these fragile areas to accommodate those activities.

The Legislature declares that certain areas of the Maine coast, because of their fragile nature, valuable habitat and their storm buffering abilities should be protected and conserved in their natural state and that it is inappropriate to use state funds to encourage or support activities incompatible with the ability of these areas to sustain these activities.

##### §1902. Limitations on state expenditures affecting the system

Except as provided in section 1903, no state funds or state financial assistance may be expended for development activities within the coastal barrier resource system, including, but not limited to:

1. Structures. The construction or purchase of any structure, appurtenance, facility or related infrastructure;

2. Roads, airports, boat landings. The construction of any road, airport, boat-landing facility or other facility on or bridge or causeway to, any coastal barrier; and

3. Erosion. The carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline or inshore area.

§1903. Exception to state prohibition

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1. Expenditure of state funds for coastal barriers for the following activities. State funds may be expended on coastal barriers for the following activities:

A. The maintenance, replacement, reconstruction or repair, but not the expansion, except where expansion is necessary in order to meet minimum design requirements, of state-owned or state-operated roads, structures or facilities, and

B. Any of the following actions or projects provided they are consistent with the purposes of this chapter:

(1) The study, management, protection or enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands and stabilization projects for fish and wildlife habitats.

(2) Recreational uses that do not involve an irretrievable commitment of natural resources.

(3) Scientific research, including, but not limited to, geologic, marine and fish and wildlife, and

(4) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance or restore natural stabilization systems.

2. Authorization of state expenditures. The Governor may, after consultation with the appropriate state agencies and the affected community, approve state expenditures or financial assistance available within the coastal barrier resources system for assistance for emergency actions essential to the saving of lives, the protection of property and the public health and safety.

§1904. Maine Coastal Barrier System

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The Maine Coastal Barrier System shall include the following coastal barriers:

1. Carrying Place Cove. Carrying Place Cove, Town: Harrington;

2. Birch Point. Birch Point, Town: Perry;

3. Lubec Barriers. Lubec Barriers, Town: Lubec;

4. Baileys Mistake. Baileys Mistake, Town: Lubec and Trescott;

5. Grassy Point. Grassy Point, Town: Cutler;

6. Seal Cove. Seal Cove, Town: Cutler;

7. Sprague Neck. Sprague Neck, Town: Cutler;

8. Jasper. Jasper, Town: Machiasport;

9. Starboard. Starboard, Town: Machiasport;

10. Bare Cove. Bare Cove, Town: Roque Bluffs;

11. Roque Bluffs. Roque Bluffs, Town: Roque Bluffs;

12. Popplestone/Roque Island. Popplestone/Roque Island, Town: Jonesport;

13. Flake Point. Flake Point, Town: Steuben;

14. Over Point. Over Point, Town: Steuben;

15. Pond Island. Pond Island, Town: Deer Isle;

16. Thrumcap. Thrumcap, Town: Cranberry Isles;

17. Seven Hundred Acre Island. Seven Hundred Acre Island, Town: Isleboro;

18. Nash Point. Nash Point, Town: Owls Head;

19. Little River. Little River, Town: Georgetown;

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20. Hunnewell Beach. Hunnewell Beach; Town: Phippsburg.

21. Small Point Beach. Small Point Beach; Town: Phippsburg.

22. Head Beach. Head Beach; Town: Phippsburg.

23. Stover Point. Stover Point; Town: Harpswell.

24. Jenks Landing/Waldo Point. Jenks Landing/Waldo Point; Town: Cumberland.

25. Cape Elizabeth. Cape Elizabeth; Town: Cape Elizabeth.

26. Crescent Beach. Crescent Beach; Town: Cape Elizabeth.

27. Scarborough Beach. Scarborough Beach; Town: Scarborough.

28. Etherington Pond. Etherington Pond; Town: Biddeford.

29. Crescent Surf. Crescent Surf; Town: Kennebunk.

30. Ogunquit Beach. Ogunquit Beach; Town: Ogunquit.

31. Phillips Cove. Phillips Cove; Town: York.

32. Sea Point. Sea Point; Town: Kittery.

§1905. Maine Coastal Barrier Resources System Maps

1. Maps; coastal barriers identified. Maine's coastal barriers are identified on maps, available for public review, at the Department of Conservation, Maine Geological Survey office in Augusta. They are referred to as the Maine Coastal Barrier Resources Systems and are numbered consistent with the United States Coastal Barriers Resource Act.

2. Maps filed in county registry of deeds. As

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soon as practicable after the enactment of this chapter, the maps referred to in subsection 1, shall be filed, in the appropriate county registry of deeds.

3. Copies of maps provided to agencies. As soon as practicable after the date of enactment of this chapter, the Commissioner of Conservation shall provide copies of the maps, referred to in subsection 1, and a summary of this legislation to:

A. The chief elected official of each community in which a system is located;

B. All state agencies responsible for planning and managing coastal resources;

C. State agencies responsible for administering state funding programs affected by the prohibitions of this chapter; and

D. Coastal regional planning agencies.

#### PART B

12 MRSA c. 431 is enacted to read:

#### CHAPTER 431

#### MAINE SHORELINE PUBLIC ACCESS PROTECTION PROGRAM

§5201. Findings and declaration of policy

The Legislature finds and declares that public access to the Maine coast is of great importance to people of the State who make their living in the marine and maritime industries and to those who enjoy the natural beauty of our coastal shorelines; that the State of Maine and coastal municipalities own less than 3% of Maine's shoreline, the lowest percentage of publicly owned shoreline of any coastal state in the United States; that the Maine coast is experiencing intense development pressure that is further limiting public access to the shore; and that the rising costs of coastal shorefront property, together with the diminishing opportunities for access to coastal shoreline, require the establishment of a state program to encourage and support the acquisi-

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tion of shoreland areas for public uses.

§5202. Shoreline Access Protection Fund

1. Fund established. To accomplish the purposes of this chapter, there is established a nonlapsing Maine Shoreline Public Access Protection Fund, referred to in this chapter as the "fund." All income received by the Department of Conservation for the purposes of this chapter shall be recorded on the books of the State in a separate account and shall be deposited with the Treasurer of State to be credited to the fund. These funds shall be made available to the commissioner for the purpose of implementing the Maine Shoreline Public Access Protection Program, established under section 5202.

2. Expenditure of funds. All money credited to the fund shall be used to preserve and protect public access to coastal shoreland areas in accordance with the guidelines established by the commissioner pursuant to section 5202. As provided in section 5202, not less than 50% of all revenue available from the fund shall be dispersed to municipalities located in the coastal area, as defined in Title 38, section 1802. No more than 10% of the revenues available in the fund may be used for the development of acquired access areas.

§5203. Program guidelines

1. Program established. There is established within the Department of Conservation, the Shoreline Access Protection Program, referred to in this chapter as the "program" for the purposes of encouraging and supporting the acquisition and development of shoreland areas by the State Government and local governments. Any acquisition or development of shoreland areas supported by this program shall be undertaken solely to enhance, preserve or protect public access to coastal shoreland areas. The commissioner shall establish, amend or repeal rules of the department necessary to accomplish the purposes of this chapter.

2. Program guidelines. To accomplish the purposes of this chapter, the commissioner shall establish

lish guidelines for the appropriate expenditure of money available in the fund. In establishing these guidelines, the commissioner shall consider, among other things:

A. Access to shoreline for shellfish and marine worm harvesters and for other economic purposes;

B. Public access to shoreline for scenic and recreational purposes;

C. The purchase of easements and property development rights;

D. The establishment and limited development of public access ways and areas; and

E. The ability of a municipality or state agency to manage shoreline access in a manner that is consistent with the natural carrying capacity of the area accessed and to provide adequate essential public services.

3. Coastal municipality participation. Notwithstanding any guidelines established pursuant to this chapter, at least 50% of all revenue available from the fund shall be dispersed to municipalities located in the coastal area, as defined in Title 38, section 1802, for the acquisition or development of shoreline access areas. The amount granted to such a municipality pursuant to this section shall not exceed 50% of the total cost of the acquisition or development project.

4. Public access. All projects financed through this program shall be made equally open for use by all Maine citizens.

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